

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 MARCH 18, 2003

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 BILL HARRIS, PUBLIC MEMBER

15 KEN MITCHELL, CITIZEN APPOINTEE

16 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE

JIM MCINTYRE, CITIZEN REPRESENTATIVE

17  
18 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY  
GENERAL'S OFFICE

19 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND  
20 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1           BENNY WAMPLER: Good morning. We'll call the  
2 meeting to order. My name is Benny Wampler. I'm Deputy  
3 Director for the Virginia Department of Mines, Minerals and  
4 Energy, and Chairman of the Gas and Oil Board. I'll ask the  
5 Board members to introduce themselves, starting with Mr.  
6 Brent.

7           MASON BRENT: My name is Mason Brent. I'm from  
8 Richmond and I represent the gas and oil industry.

9           KEN MITCHELL: My name is Ken Mitchell. I'm from  
10 Stafford County, Virginia, and I'm a citizen appointee.

11          SHARON PIGEON: Sharon Pigeon. I'm with the office  
12 of the Attorney General.

13          DONALD RATLIFF: Donald Ratliff from Wise County,  
14 representing the coal industry.

15          JIM MCINTYRE: Jim McIntyre, Wise, Virginia. I'm a  
16 citizen's representative.

17          BOB WILSON: I'm Bob Wilson. I'm the Director of  
18 the Division of Gas and Oil and principal executive to the  
19 staff of the Board.

20          BENNY WAMPLER: Thank you very much. I'm going to  
21 depart from the agenda just a little bit this morning to  
22 follow up on our last meeting. We asked Mr. Wilson to meet  
23 with the folks that had some questions on the escrow. If you  
24 will, give us a report on that, Mr. Wilson.

--

1                   BOB WILSON: I will. We met in our office in  
2 Abingdon with Mr. Osborne and Mr. Pete Gluback, his attorney.  
3 We had an extensive meeting, about two hours plus a bit of a  
4 question and answer session afterward. The discussion  
5 largely centered around the actual proceeds, or the procedure  
6 I should say, regarding the escrow account. We went over  
7 some specific orders that involved the Linkous Horn heirs,  
8 whom Mr. Osborne represents. I think Mr. Gluback actually  
9 did some calculations based on those orders to determine  
10 their interest. We looked at some of the aspects of the  
11 escrow amounts that were being shown. Then Mr. Gluback and  
12 Mr. Osborne and others, used our conference room for a  
13 further couple of hours to discuss the...their personal  
14 situations further. We did not discuss some of the items  
15 that we discussed last time. We did not discuss the gap in  
16 payment or anything of that sort. As I said, the meeting was  
17 much more general than that. We did supply the necessary  
18 records of past Board actions for them to look at. We  
19 supplied information relative to escrow account, amounts and  
20 this sort of thing. The meeting was quite successful, I  
21 think. Mr. Osborne and I talked a couple of times since  
22 then. We may have other meetings, as necessary, if he  
23 decides he needs that.

24                   BENNY WAMPLER: Okay. And I also told Mr. Osborne

--

1 that we'd give him a few minutes to address the Board this  
2 morning rather than make them to stay here. I explained that  
3 typically...we...those are things we would take to the end of  
4 the agenda. But rather than have them have to wait during  
5 that time we would...we would hear from them this morning.  
6 Mr. Osborne, if you'll just state your full name for the  
7 record, please.

8           KENNETH OSBORNE: My name is Kenneth Osborne. I'm  
9 designated spokesman for the Linkous Horn heirs. Mr.  
10 Chairman, again, thank you. I'm sorry about the  
11 misunderstanding. I appreciate you all letting me speak. I  
12 always ask before...I'm filming this.

13           BENNY WAMPLER: That's fine.

14           KENNETH OSBORNE: Does anybody have any objection  
15 to me filming this?

16           (No audible response.)

17           BENNY WAMPLER: Pardon?

18           BOB WILSON: Does he need to be sworn?

19           BENNY WAMPLER: I don't think so, not just to  
20 address us this morning, no. Unless a Board member objects,  
21 I have no objection to having it on tape.

22           MASON BRENT: Not unless he intends to give  
23 testimony.

24           BENNY WAMPLER: Right. If you're just addressing

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1 the Board, you don't need to be sworn. You know, if  
2 you're... if you're going to give testimony that would be  
3 used for something for the Board, then you do need to be  
4 sworn. So, I'll leave that up to you.

5 KENNETH OSBORNE: At this point, I don't think that  
6 I need to be sworn.

7 BENNY WAMPLER: Okay.

8 KENNETH OSBORNE: Once again, as always Mr. Wilson  
9 is always real helpful about helping us. Like I said before  
10 at the last meeting, I'm not an attorney, and I'm not an  
11 expert on this. For the common person, some of these figures  
12 and stuff is really hard to understand. But he was really  
13 helpful on the other stuff.

14 But still the gap that I showed you. I apologize  
15 for not having some of these to pass out to the Board  
16 members. The gaps from where the wells produced up until the  
17 time that the actual escrow account was opened. I'm still,  
18 you know, trying to figure out how this...the monies for  
19 these months is figured in.

20 And also, I'm still trying to learn exactly the  
21 process of this. So, I guess, what I need to know is, is  
22 there any...is there any regulation...is there anyone that  
23 governs...whether it be Consol, Pocahontas, Buchanan  
24 Production or whoever, is there any...any company or any

--

1 agencies or anyone that governs or keeps an eye on these  
2 figures that they turn in? To my understanding, and I'm  
3 just...I'm just using a number here just to get my point  
4 across. And let's say for one month, production is \$500,000.  
5 Now, to my understanding, the up front production, let's say  
6 it be \$250,000, now am I to assume this is a figure that  
7 Consol or Pocahontas turns in as production up front? And,  
8 in fact, if it is, does anybody...is there any agency...is  
9 there anyone that regulates these figures? Is there anyone  
10 that keeps a check on these figures? I'm having...I'm having  
11 trouble believing that the overall escrow account at this  
12 point is around \$7,000,000 from since 1997 when production  
13 started. That's just...I'm having trouble believing the  
14 escrow account only has \$7,000,000. You can get the  
15 productions of the wells, how many wells by county or by  
16 company, how much their production is per month, per year and  
17 if you take these and you just use the modest dollar figure  
18 of \$3, \$3.50 or \$4 per 1000 cubic feet and it's just...it  
19 amazes me that the escrow account is only \$7,000,000.

20 BENNY WAMPLER: Well, you do realize that a lot of  
21 parties that are leased parties that are not in the escrow.  
22 So, you can't just take the production number and multiply it  
23 by some amount and say that's what the escrow should equal?

24 KENNETH OSBORNE: Correct.

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1           BENNY WAMPLER: So, that...you know, that would be  
2 a major disparity there to begin with. Mr. Wilson, do you  
3 want to address the production...his question about who  
4 regulates what?

5           (Bill Harris enters the room.)

6           BOB WILSON: The operators are required to report  
7 gross production to the Division of Gas & Oil. They do that  
8 on a monthly basis. There is a delay, of course, between the  
9 end of the reporting month and time that they report because  
10 of the significant amount of reading and verification and  
11 such that has to be done to get these numbers together. They  
12 are required to report gross production to us. These are the  
13 same figures that are used to establish their tax burden,  
14 etc. We do not check their meters. We do not audit their  
15 reports or anything of this sort. They send reports to us.  
16 They sign them. We accept them in the same way that we  
17 accept basically signed and delivered information.

18           The cost, as Mr. Wampler just addressed, the amount  
19 of money in the escrow account reflects the percentage of  
20 total production that has been ordered by the Board to go  
21 into escrow. Any well or any unit that has not come before  
22 the Board, the Board has no knowledge of and no jurisdiction  
23 over. Any voluntary agreements that are reached, the Board  
24 has no jurisdiction over. So, the actually money in the

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1 escrow account represents some percentage of overall  
2 production. We have no idea how much. But I would suspect  
3 that it's a relatively low percentage of the overall  
4 production because the vast majority of production is paid  
5 directly to individuals and never passes through the Board's  
6 jurisdiction. Any funds that are suspended or escrowed or  
7 otherwise held that...for wells that have not come before the  
8 Board is done so entirely by the operators and the Board has  
9 no jurisdiction over that as well.

10 BENNY WAMPLER: So, it's just for those...just so  
11 you understand it, it's just for those cases that come before  
12 the Board where we order that that money be paid into escrow.  
13 That's all you going to see in escrow related production to  
14 that. So, it would be a percentage of that production.  
15 Whatever percentage in certain units that was pooled.

16 BOB WILSON: I might point out that some units that  
17 pass through here, less than one percent of the entire unit  
18 is subject to escrow, even of the units that come before the  
19 Board. There are many units that are drilled, many wells  
20 that are drilled that the Board never sees.

21 So, the total production figure would not be a good  
22 indicator of what should be in the escrow account unless you  
23 had gone back and calculated the actual percentage of acreage  
24 that's under production in the entire state that is subject

--

1 to Board order.

2           MASON BRENT: I might also point out that there  
3 have been money in the escrow account that have been  
4 distributed if folks have...parties of conflict have come to  
5 terms and arranged to split the production of income, then  
6 that money flows out of the account.

7           BOB WILSON: I believe we have disbursed somewhere  
8 in order of \$2,000,000 to date.

9           BILL HARRIS: Mr. Chairman, may I?

10          BENNY WAMPLER: Yes, Mr. Harris.

11          BILL HARRIS: Bill Harris. I'm sorry I'm late. A  
12 public member from Big Stone. I'm sorry I wasn't here  
13 earlier for your remarks.

14           A couple of things that sort of came to mind as you  
15 were asking about accountability, I think, for the  
16 companies.

17          KENNETH OSBORNE: Yes, sir.

18          BILL HARRIS: If...you know, if the meter says, you  
19 know, 200,000,000 one day and 205,000,000 the next day, you  
20 know, who is following behind them. I'm not sure that  
21 someone does. I'm sure that there's some system in place  
22 where checks and balances in terms of the honesty of the  
23 person reading the meter...I mean, because I know mistakes  
24 are made and that sort of thing. You're...I guess you're

--

1 asking who follows behind the companies to make sure that  
2 that is indeed the amount of money that was...the amount of  
3 gas that was pulled from the well. That's one the  
4 question... I can't answer that. I don't know if someone can  
5 answer that.

6           BOB WILSON: No, I think that we're probably moving  
7 into areas that would require outside legal action to do. Of  
8 course, our regulation...our law and regulation does not  
9 provide for us auditing the production numbers that we get  
10 in. That is the sort of thing that would require a rather  
11 sizable staff and quite an operation to follow behind all of  
12 these and audit. We're just not authorized or given any kind  
13 of mandate to do that sort of thing. And, again, I suspect  
14 if there were questions that arose in that manner, that  
15 the...there would be a civil action necessary to cause any  
16 movement on that.

17           BILL HARRIS: The other point is about escrowing  
18 your...it varies from situation to situation. But you're  
19 probably talking what one-eighth royalty when we do talk  
20 about divvying money. So, you're looking at an eighth of the  
21 profits...well, I'm not sure if they define it as profits,  
22 but from the production. So, you're looking at one-eighth of  
23 that and not all of that is escrowed. It's usually a portion  
24 of that. So, I don't know if the amount is a large amount or

--

1 a low amount. I guess, you're suggesting that that's low...  
2 the 7,000,000 is low considering the number of years of  
3 production.

4 KENNETH OSBORNE: Yes, sir.

5 BILL HARRIS: I don't know if...I can't say that it  
6 is or not. But I do know that the number of people involved  
7 or the percentages are very low because, again, you're  
8 looking at one-eighth royalty before you even start dividing  
9 things up among the people who have interest as well. So,  
10 that doesn't give you a dollar amount.

11 BOB WILSON: I might point out that insofar as the  
12 escrow account is concerned, we are required to enforce the  
13 terms and conditions of the Board order and the Board orders  
14 require money to be deposited into these accounts. We have,  
15 of course, in the past found instances where mistakes have  
16 been made and we have investigated and we have followed. We  
17 have caused monies to be deposited when we found these  
18 things. To the best of our determination, it usually has  
19 been accounting errors that...most of the companies have  
20 accounting firms that do these things for them. They may or  
21 may not always understand all the ins and outs of these  
22 things. Usually we find pretty basic errors somewhere where  
23 the money has not been earmarked to go in the proper  
24 direction. When we have found those, they have been remedied

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1 immediately. That's a very, very small percentage of the  
2 orders that we've had any problems with. We do try to make  
3 sure that the orders that the Board has approved that require  
4 establishment of escrow accounts are followed up on. The  
5 escrow account is established as soon as the order is  
6 executed such that as soon as production starts and the lag  
7 time has passed that money can flow into that account. So,  
8 we do follow up on it from that standpoint. The escrow  
9 account itself is regularly audited by an outside independent  
10 auditor or contractor.

11 KENNETH OSBORNE: But the escrow account, that's  
12 all that's regulated by the Board? That's all...that's all  
13 that's required to be regulated by the Board is what's  
14 escrowed?

15 With all due respect to the Board and with all due  
16 respect to Consol, Pocahontas or whoever, the bottom line is  
17 I guess they...they turn these figures in and what they turn  
18 in gets turned in. I mean, nobody...nobody questions this.  
19 Nobody follows up behind it. I guess that's the point I'm  
20 getting at is it's not required for anybody to question the  
21 figures or follow up behind them, correct?

22 BOB WILSON: Again, in reference to the escrow  
23 account now, the...at the moment of disbursement of funds  
24 from the escrow account balance has to be achieved in that

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1 account. The operator is ordered by the Board to present an  
2 accounting from day one to the date of the order to show each  
3 deposit that has gone into that account and that they balance  
4 with the bank's total for that account. So, at payout, there  
5 is rectification of the account and balance. But, no, on a  
6 daily basis, we do not follow up all these sub accounts.  
7 There are literally thousands and thousands of individuals  
8 who are involved in that escrow account. We have found that  
9 the only practical way that we can maintain the account is  
10 maintain it to the level of the order such that we know  
11 what's in each account that has an order for it. But we do  
12 not break it down according to individuals.

13 BENNY WAMPLER: Tell him about the production  
14 information that you receive...that the DGO receives.

15 BOB WILSON: In what respect?

16 BENNY WAMPLER: Just your annual production---.

17 BOB WILSON: Okay. Yeah, we...we require that the  
18 companies report to us monthly the amount of gross production  
19 that they get by...on a per well basis. Many states---.

20 (Mr. Osborne holds up a sample.)

21 BOB WILSON: Yes, exactly. The kind of reports  
22 that you have gotten from us before. Many states allow  
23 production to be reported a leased basis or other basis. We  
24 require it on a per well basis. Each well has to be

--

1 individually metered. We have to have a monthly report...a  
2 line item report showing the amount of production from each  
3 well for that month. We require at the end of the year an  
4 annual report which states the total amount of production for  
5 the year. It states...it includes an operator's statement,  
6 all their severance taxes have been paid based on that  
7 amount. So, we have a two-fold reporting system, a monthly  
8 report and an annual report. They typically will come in  
9 about forty-five days after the end of the month has been  
10 reported for. We enter it into our system. But if your  
11 question is, do we then audit those numbers? No, we do not.

12 KENNETH OSBORNE: Again, with all due respect to  
13 Pocahontas and Consol, what it boils down to is these figures  
14 that they turn in here is the figures that they turn to you  
15 and nobody goes back...they don't check the meters, they  
16 don't check if \$500,000 was right off the top for this or  
17 that. Nobody...nobody is regulating this, correct?

18 BENNY WAMPLER: This Board is not charged with  
19 regulating any---.

20 KENNETH OSBORNE: Exactly.

21 BENNY WAMPLER: ---deductions. We're just speaking  
22 today from the Board's perspective.

23 KENNETH OSBORNE: Yes, sir.

24 BENNY WAMPLER: We're not...we're not charged with

--



1 regulating any deductions whatsoever that are taken as a  
2 result of transportation or anything like that.

3 KENNETH OSBORNE: Correct. And, again---.

4 BENNY WAMPLER: It's monitored at the well head.  
5 The production number that we get are well head production  
6 numbers. That's how...how it's setup to go into escrow.

7 KENNETH OSBORNE: Yes. But---.

8 MASON BRENT: I'll just say for what it's worth,  
9 having had experience in the gas industry, this production is  
10 all taxable. The income from this production is taxable to  
11 the companies. So, if you start fooling around...if you are  
12 a company and you start fooling around with your production  
13 numbers, you're getting yourself into a whole lot of trouble  
14 that most reputable companies including these here are not  
15 going to go in.

16 KENNETH OSBORNE: Well, again, with all due respect  
17 to everybody that's involved, you know, if there's nobody...  
18 if there's nobody here to challenge these figures and if  
19 there's nobody here to regulate it, I mean, I just...you  
20 know, I foresee a lot of problems especially with the overall  
21 amount in the escrow account. I'm...you know, I'm not  
22 the...I'm not the only one. It's just...I just foresee a lot  
23 of problems. But I...but what I needed to find out mainly  
24 was exactly which...I had a pretty good idea. But I just

--

1 needed to know exactly what the law requires the Board to  
2 regulate.

3           BENNY WAMPLER: It's basically an enabling statute  
4 that allows and affords companies an opportunity to come in  
5 here and to identify the parties and to pool those parties.  
6 You know, obviously charged with setting up field rules and  
7 the units and things like that to protect correlative rights.  
8 It's all laid out in the statute. But to go into doing  
9 audits of meters and those kinds of things or to regulate  
10 deductions that are taken, there's no authority given this  
11 Board or no charge by the law to do that.

12           BOB WILSON: Mr. Chairman. I'm not sure, Mr.  
13 Osborne, if we've ever gave this to you or not, but Article  
14 II of the Gas and Oil Act and the Gas & Oil Board Regulations  
15 spell out pretty thoroughly exactly what our mandate is.  
16 I'll be glad to get you copies of those if we haven't done  
17 that already.

18           KENNETH OSBORNE: No, sir, you haven't.

19           BOB WILSON: Okay.

20           KENNETH OSBORNE: And I just...I mean, with what  
21 I'm going to proceed forward with, I just wanted to make sure  
22 that, you know, I had all the details. And like I said, I  
23 had a pretty good idea of what you all have to regulate and  
24 what you don't have to. Again, you know, like I said, the

--

1 figures if nobody is there to question them and nobody is  
2 there to regulate them, then I just...you know, I foresee a  
3 lot of problems.

4 BENNY WAMPLER: Well, any information we have is  
5 public information.

6 KENNETH OSBORNE: Yes, sir.

7 BENNY WAMPLER: We'll be happy to work with you  
8 with that. Mr. Wilson, if he hasn't already, will get you a  
9 copy of the statute. You know, we'll answer any questions  
10 that you have as you go.

11 KENNETH OSBORNE: I'm assuming now...and if I'm  
12 wrong, then I guess you all can tell me, but I'm assuming  
13 the...these escrow account agents...I think it's in  
14 Philadelphia or Pittsburgh or wherever. I mean, I don't  
15 think it's a problem to check those records, is it?

16 BENNY WAMPLER: Are you talking about our  
17 bank...our bank escrow that the Board has? Is that what  
18 you're asking?

19 KENNETH OSBORNE: Well...yes, sir.

20 BENNY WAMPLER: You were looking at them. So, I  
21 didn't know.

22 KENNETH OSBORNE: Well, I---.

23 BENNY WAMPLER: But if you're talking about as far  
24 as the bank goes, I don't know whether the bank would let you

--

1 in...you know, what they would do. Certainly, anything that  
2 we have reports from the bank, the audit reports we have, any  
3 of that is public record and it is available to you. We've  
4 had comprehensive audits of the escrow several times, and  
5 have certified audits by independent parties. So, that's all  
6 public record. Every quarter or as often as the Board asks,  
7 the bank gives us an update. That's all public record and  
8 available to you.

9 KENNETH OSBORNE: Okay.

10 BENNY WAMPLER: I can't answer whether or not the  
11 bank would allow you into their...you would have to ask them.  
12 We can certainly provide you with our contact person and,  
13 you know, if they'll let you, that's fine with us.

14 KENNETH OSBORNE: Could I get that...could you get  
15 that to me, the contact person?

16 BOB WILSON: Sure.

17 KENNETH OSBORNE: Okay. Again, I appreciate you  
18 all letting me speak this morning.

19 BENNY WAMPLER: Sure.

20 KENNETH OSBORNE: I apologize again for the  
21 misunderstanding about it.

22 BENNY WAMPLER: That's all right.

23 KENNETH OSBORNE: But I just...you know, I can't  
24 say enough that nobody regulates it and nobody questions it,

--

1 then it just appears to be a problem.

2 BENNY WAMPLER: Thank you very much.

3 KENNETH OSBORNE: Thank you, sir.

4 BENNY WAMPLER: The first item on today's agenda is  
5 a petition from Pocahontas Gas Partnership for a modification  
6 of Oakwood I Field Rules to allow for drilling of multiple  
7 wells in the units DD-20 to DD-31, EE-20 to EE-31 and FF-20  
8 to FF-31. This is docket number VGOB-93-0216-0325-01,  
9 continued from the February meeting. We'd ask the parties  
10 that wish to address the Board in this matter to come forward  
11 at this time.

12 MARK SWARTZ: Mark Swartz, Les Arrington and Rick  
13 Toothman.

14 BENNY WAMPLER: Do you need to...do we need to  
15 swear? I guess we should go ahead and swear them in. Go  
16 ahead and do that in case we ask them a question.

17 (Witnesses are duly sworn.)

18 BENNY WAMPLER: Do all the Board members have a  
19 copy of the transcript of how we...how we left it at the last  
20 meeting? Basically, we said we wanted to come back today and  
21 make sure that we had...leave this on the agenda for any  
22 follow up questions and make sure that we had addressed the  
23 correlative rights issues. I believe that's...is there any  
24 clarification to that?

--

1                   MARK SWARTZ: That was our understanding.

2                   BENNY WAMPLER: There is one thing that I wanted to  
3 ask you to address that I don't believe that...if we did, I  
4 apologize. But I don't believe that we covered allowable  
5 production and I would ask you to address that.

6                   MARK SWARTZ: We...and I appreciate the heads up so  
7 we could think about it before we got here. I will let Rick  
8 address this in a minute. But I just wanted to talk about it  
9 from a legal standpoint.

10                   I assume that the question with regard to allowable  
11 production comes from a desire to use that as a mechanism to  
12 address correlative rights. Otherwise, I could see no reason  
13 to address that. From a legal standpoint, and I guess from  
14 the standpoint of a guy who has been doing this long enough  
15 so that I forget, you know, when my lawyering, you know,  
16 leaves off and my geology and reservoir engineering picks up,  
17 you know.

18

19                   The problem I have as an attorney in this...in this  
20 setting with allowable production, is allowable production is  
21 limited either to a well or to a unit is what's going to  
22 happen? So, if you're looking at allowable production,  
23 you're going to have this well can produce X or this operator  
24 can produce X out of this unit no matter how many wells they

--

1 have. The problem that you get into...well, I don't know if  
2 there's any chalk here or not. The problem that we're  
3 addressing...the problem that we were talking about when we  
4 were...we essentially had two alternatives about this just to  
5 remind people that were here and to alert people who weren't.  
6 The problem that we're having is if we have...I'm just going  
7 to do four units. We'll call this four 80 acre units. And  
8 if you've gotten...they all have drilling windows. And we  
9 were looking at a situation...hypothetical situation on terms  
10 of what are you going to deal with the dollars that come out  
11 of the wells. And let's assume that each one of these units  
12 already has, you know, one well in somewhere in the drilling  
13 window. Some are pretty close to the edge of the drilling  
14 window and some aren't. We're talking about drilling just  
15 for the sake of an example today. One more well in this  
16 unit. What are we going to do with the production from that  
17 well? If you're going to limit in production from the well,  
18 it doesn't really help you on correlative rights unless your  
19 production is somehow related to the drainage area you're  
20 allowed. So, I mean, if...and I'm not recommending this.  
21 I'm just trying to illustrate the problem that I have with  
22 this. I mean, if we have this additional well and it's  
23 fairly close to the unit boundary, I think the concern that  
24 we have is, is there drainage across that line that is a

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1 consequence of the people involved? And if there is and your  
2 allowable is a well allowable...well, I don't think that  
3 solves that problem at all. You know, it's just...you're  
4 eliminating the production from the well. But unless the  
5 production window is minuscule, you're going to have drainage  
6 across that line, which I think is the concern.

7           If you're going to look at the allowables from the  
8 standpoint of an 80 acre unit, so I would just say that well  
9 allowables I don't...I don't think it gets you where...from a  
10 correlative rights standpoint where I'm assuming the intent  
11 is to be. If you're looking at units and production per  
12 unit, you're still going to have...so, now you're going to  
13 say, okay, we've got two wells in this unit and we're going  
14 to allow, or we have three wells in this unit, and we're  
15 going to allow you produce from the units some number. Once  
16 you get to that number, you're done. Well, I don't see that  
17 the unit production improves this at all either because  
18 you've still got an issue with regard to what's the drainage  
19 pattern of this additional well. And to design an allowable  
20 for wells on the fringes here is very problematic. I'm going  
21 to let Rick talk about that because he has some view as well.  
22 I mean, the proposal that Les had suggested, which is in the  
23 packet of information we had, I think there was an example or  
24 it was a separate exhibit, was to create a...every time we

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1 drilled an increase density well was to create an overlay  
2 unit of 60 acres. That would allocate the production from  
3 this additional well to the people who happened to be within  
4 that 60 acres; or...well, actually that...that is one way to  
5 do it. Another way to do it is allocate...and I think is  
6 actually what Les was proposing, is to allocate the  
7 production from this well on a percentage basis of whatever  
8 this percent is to this entire unit and everyone would share  
9 in that. The alternative would be to simply, you know,  
10 allocate it to the people that are within the unit.

11 I think the appeal...my read of the Board, which  
12 may or may not have been accurate, it seems that this idea of  
13 allocating the production from this well to essentially 320  
14 acres of owners was more appealing to the Board because  
15 dividing the revenue the number of people seems to be a goal  
16 that was important, and a good one. But those were the  
17 alternatives. But I really...you know, if this concept...  
18 coming back to the question on allowables, if this concept  
19 that if we're going to allow more wells, which clearly makes  
20 sense from a production standpoint, which makes sense from a  
21 dollar sense standpoint, which makes sense from the  
22 standpoint of generating more revenue quicker for more  
23 people. So, I mean, we're already over that hurdle, I think.  
24 But the question when you're looking at drainage and you're

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1 looking at recovery of this increased density wells, you  
2 enviably are looking at, okay, where is the production coming  
3 from and the concern that you're starting with is the  
4 production is not necessarily coming from a drainage pattern  
5 that is reasonable to assume is confined to this unit. So,  
6 what are you going to do to share the benefits there? You  
7 know, the...and I think something that we have not talked  
8 about, and I'm certainly not proposing this, but the end of  
9 the spectrum...I mean, there are two ends of the spectrum  
10 here. One end of the spectrum is if this is an 80 acre unit,  
11 you can drill wherever you want in this unit and go forward  
12 and just pay the people in this unit. That is...that is one  
13 end of your options spectrum. The other end of the option  
14 spectrum is to say we're going to make you unitize this 320  
15 acres, and everybody's in there, the total production gets  
16 distributed to everybody and it's a unitized...now, this  
17 Board has never really gone for unitized because it's  
18 difficult thorny creature that...you know, ten or twelve  
19 years ago we talked about it and explored it. But it was  
20 decided that there was issues associated with that. That we  
21 weren't prepared to...collectively prepared to go...to go in  
22 that direction. But that the other end of the spectrum.

23               So, inevitably because we're not at the most sort  
24 of draconian...you know, this is the way it was, you know,

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1 get over it, to this is the perfect world. We're somewhere  
2 in between there. So, there's going to be compromises because,  
3 you know, what we're proposing is not, you know, the  
4 unitization solution and it's not the go on solution either.

5           So, you've got really...you know, you've really got  
6 some choices. But I think those choices need to be driven by  
7 the science. I'm going to let Rick talk about that in a  
8 minute. I'm just about done. But I think the choices need  
9 to...need to take in account the science and need to take  
10 into account the public policy behind the law which is to  
11 fairly distribute revenue to people who appear to have  
12 legitimate claims to that revenue either based on the science  
13 or based on, you know, the purpose behind the law to  
14 recognize correlative rights. You know, as the intersect...  
15 as the science intersects with the legislative goal of  
16 distributing revenue fairly to larger numbers of people, and  
17 that's what correlative rights is all about, as though  
18 goals...the science and those public policy goals intersect,  
19 what is a reasonable solution to take science into account  
20 and to pay people fairly. And that's...you know, and that's  
21 really where we are here. I think the spectrum of choices  
22 I've laid out for you and these are the...you know, the  
23 options that are appear to us to be, in light of the science,  
24 you know, the best way to do this.

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1           I really...I mean, well allowables, for those of  
2 you who may not be real familiar with them, are the true  
3 allowable in the sense that its used in the regs and in  
4 the...if it is used in the statute, is a limitation on  
5 production from a well to address a drainage issue is  
6 essentially what it is.

7           BENNY WAMPLER: And the reason I brought it up is  
8 because it is in the statute.

9           MARK SWARTZ: Right.

10          BENNY WAMPLER: It's in 453.1-361.20. And it says  
11 that...you know, that the allowable production of each well  
12 is part of what we have to make a determination on. In fact,  
13 it says that, "Any hearing of the Board regarding  
14 establishment or modification of a drilling unit, the Board  
15 shall make the following determinations", and that's one of  
16 them. Then in our rules we say that as far as a  
17 modification, "Statement of the proposed allowable rate or  
18 rates and supporting documentation." Now, obviously when we  
19 developed the field rules, we...even though it's addressed in  
20 those field rules, it's flexible. Okay, we didn't really try  
21 to pin it down initially on the field rules. But when you're  
22 coming into modify a field rule, to me then we need...we need  
23 to have some discussion about what we're talking about here.  
24 If you're putting two straws in this unit and not in that

--

1 one and, you know, these other kinds of things, I think it  
2 starts raising those kinds of questions that was intended by  
3 the allowable but goes directly to the---.

4           MARK SWARTZ: I wish we had the slide that we put  
5 up. I don't think it's in your book. But Rick showed a  
6 slide last month of the...of all of the wells that we had  
7 above and below the intersection of the Middle Ridge and  
8 the...and the Oakwood Fields. I think it demonstrated pretty  
9 clearly to you guys who...I mean, could expect to have some  
10 level of...and it was even more (inaudible) than that.

11           RICHARD LYLE TOOTHMAN, JR.: Well, it was that---.

12           MARK SWARTZ: And it had the bubble map.

13           RICHARD LYLE TOOTHMAN, JR.: And we showed a bubble  
14 map---.

15           MARK SWARTZ: Right.

16           RICHARD LYLE TOOTHMAN, JR.: ---which showed the  
17 size of the bubble. But let me address on a technical issues  
18 with an allowable again in this...in this standpoint. First  
19 of all, we're talking about the coalbed methane of  
20 production, not conventional production. We're talking about  
21 tapping into multiple coal seams at any given unit, which  
22 changes. So, your total net thickness, although we've  
23 attempted to average that across this unit that we're talking  
24 about, but if we get more general across...across the

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1 property as it exists PGP, BPC or what have you, the total  
2 amount of coal changes from unit to unit. The gas contents  
3 of each one of those respective coal changes per unit. The  
4 permeability of the coal seams in various areas sometimes is  
5 a little better than other due to structural constraints.  
6 So, what...what that comes back to, those are the main things  
7 that will calculate a gas in place type number of which you  
8 would establish some type of allowable. To make a general  
9 statement that we're going to make an allowable, you know,  
10 1BCF hypothetically or whatever per unit would be very  
11 difficult to do. A more proper way to do it, a rigorous way,  
12 would be to establish an allowable for every single unit  
13 based on what you had which is beyond what we could do and  
14 beyond I think what the Board could regulate. That's why I  
15 think the problem needs to be addressed in the way it  
16 allocates your production. If you're concerned...I mean,  
17 some of these issues we have are already out there without  
18 modifying the field rules because we don't have perfect  
19 squares with wells in the perfect center. That's due to the  
20 typography and the issues that we have before us. So, you  
21 know, the thing we have before the Board is to allocate the  
22 production in the most equitable way. I'm not saying  
23 sidestep an allowable, but I don't think it's...it's an  
24 appropriate mechanism for coalbed methane.

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1           The other problem in an conventional standpoint,  
2 allowables generally are set up based on the initial  
3 production or some flow test in the beginning of what it's  
4 capable of doing. I told Mark, the only time that I've ever  
5 seen an allowable in a useful stand...used appropriately is  
6 in the event that you're in an area that you can produce  
7 50,000,000 a day but you can only move 30,000,000 a day out  
8 of the area. If you don't have an allowable, what you could  
9 be doing is moving...you could pick and choose the 30,000,000  
10 that you want to move onto somebody's else gas is not moving  
11 on that system. That's the only time I've ever really seen  
12 an appropriate use of an allowable. What they do in that  
13 case, is based on the well test, the initial well test  
14 they'll allocate some proportion, whatever that is, 85%  
15 across the field to match that production out. We don't have  
16 those pipeline constraints. We have the ability to move all  
17 the gas that we've produced or drill into.

18           The other problem with coalbed methane is that you  
19 don't necessarily get a peak rate when you bring a well on.  
20 We may not see a peak rate from three years. We've got wells  
21 that may not make much gas for 45 days because of the  
22 water...associated water production with it. So, because  
23 it's an unconventional nature, I don't see how we could see  
24 establish a true allowable per well for correlative rights or

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1 any other mechanism for that matter. I think it would be a  
2 very difficult thing to implement from a technical standpoint  
3 as well as for the Board. The best way I think we can  
4 address is just to appropriately allocate the production from  
5 these wells and everybody would win.

6 BENNY WAMPLER: Well, I think you're right in that  
7 that's the direction we've gone. That's what I've talked  
8 about, the flexibility in the initial field rules and the  
9 modifications. If we...if we...let me get you to address for  
10 us the distance between wells then, 600 feet between wells,  
11 which hasn't been specifically addressed here as we do that.  
12 Would you address that as to the...in areas where you don't  
13 have a mine plan?

14 RICHARD LYLE TOOTHMAN, JR.: In areas that we don't  
15 have a mine plan?

16 BENNY WAMPLER: Right. Where you have a mine plan  
17 I think it's pretty clear that, you know, you can put the  
18 number of wells necessary to facilitate the mining. But in  
19 others where you do not have a mine plan, you've got...and to  
20 me this all ties to correlative rights and that's what I'd  
21 like to just get on record about, if you've got 600 foot  
22 spacing right now, or distance between wells.

23 RICHARD LYLE TOOTHMAN, JR.: Okay.

24 BENNY WAMPLER: And I haven't heard that as

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1 proposed to be a part of this. I haven't heard it not be,  
2 but it's not addressed to this point.

3 MARK SWARTZ: I think it wasn't addressed because  
4 we don't see the 600 foot spacing as a problem.

5 LESLIE K. ARRINGTON: That's correct. It is not.

6 MARK SWARTZ: We're not proposing to space well  
7 closer than 600 feet under this modification.

8 BENNY WAMPLER: Okay.

9 MARK SWARTZ: I understand your question. And  
10 that's why, I guess...you know, we didn't bring it up because  
11 we don't see that---.

12 BENNY WAMPLER: I just wanted to address it. It's  
13 not addressed...we haven't addressed it---.

14 MARK SWARTZ: ---for that reason.

15 BENNY WAMPLER: ---and I wanted to make sure we did  
16 address it.

17 MARK SWARTZ: And that's why we didn't bring it up  
18 because we don't...we don't anticipate that we're going to be  
19 closer. The side of the 80 acre square, if I'm not mistaken,  
20 is about 1800 feet to give you some order of magnitude in  
21 terms of distances. So, the 600 foot is not going to be...we  
22 don't see that as an issue for us here that we can drill the  
23 wells that we would like to drill without running or follow  
24 that distance. Right, Rick?

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1                   RICHARD LYLE TOOTHMAN, JR.: That's correct. I  
2 wouldn't...I wouldn't propose any well to be within 600 foot  
3 in any of these instances of the field rules.

4                   MASON BRENT: Why is that?

5                   RICHARD LYLE TOOTHMAN, JR.: Because I think it  
6 comes back to the two things. What we want to do is in the  
7 process of infill drilling what we would like to do is space  
8 these things as uniformly as possible. That's why our  
9 original proposal actually showed wells outside the existing  
10 drilling windows because of the typography limitations and so  
11 forth. You know, with these squares it shows a big square  
12 sometimes. But, you know, from a real standpoint, sometimes  
13 those are difficult. If you put two wells very close  
14 together, you'll promote your interference of those two  
15 wells, but you're still going to leave some areas untapped.  
16 So, you know, again, in a perfect world on paper, you'd set  
17 these things out on uniformed spacing on whether it would be  
18 60 acres or 40 acres and you'd do that, you know,  
19 symptomatically as much as you possibly could. We do create  
20 hydraulic fractures. We know what the orientation is for  
21 that. It does you no good to put another well. You want to  
22 promote interference in an uniform system of that...of that  
23 entire reservoir. If all you do is tap into that existing  
24 well and you share production, you're still leaving untapped

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1 resources out there and you've doubled your cost to get that.  
2 So, from that standpoint it makes no sense to do that. I  
3 think...you know, in a case like that, if we're pinned you  
4 have a hard time justifying an additional well if that's  
5 where you have to put it and it was that close, you know.  
6 The appropriate action I think on our part would be not to  
7 put a well in there.

8 BOB WILSON: Mr. Chairman.

9 BENNY WAMPLER: Mr. Wilson.

10 BOB WILSON: I think probably what you're referring  
11 to there was in the application for this modification of  
12 field rules, proposed order sought. Part of the  
13 specification was that the second wells may be located within  
14 300 feet of unit boundaries and need not be more than 600  
15 feet from the nearest coalbed methane well. In the  
16 application it was stated that that was part of...what you  
17 were implying.

18 (Benny Wampler and Donald Ratliff confer among  
19 themselves.)

20 BENNY WAMPLER: We're discussing the issue if  
21 you...I think it goes to the spacing as well...within the  
22 unit. If you have...if you have a unit adjacent to that...to  
23 what Mark has drawn up here, you know, and an individual  
24 comes in and challenges...well, they didn't take any one of

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1 those. So, the one in the upper lefthand corner and the one  
2 in the right-hand corner. Someone challenges that you're  
3 draining the lefthand top...the right-hand and lefthand top  
4 is what I'm dealing with. If the one in the right-hand top  
5 challenges that you're draining out of the lefthand top. I  
6 guess it goes back to the basic field rules to begin with  
7 that we feel like that we established based on technical  
8 information presented to the Board that rather than have  
9 statewide spacing where you had circles and a lot of people  
10 left out that this provided the greatest protection. But  
11 you...but it was also recognized early on that you...you  
12 would...you could have drainage over in that other unit. But  
13 overall, you'd have an equalization because no one was left  
14 out.

15

16

17           MARK SWARTZ: And the theory behind the fairness of  
18 the Oakwood rules, and I'll just stay with that, was an  
19 assumption that science was relatively right and that the...  
20 collectively the operators in Virginia would drill up the  
21 field. I mean, if you create field rules and you don't drill  
22 up the field, you've got problems. I mean, for example, if  
23 when, you know, ten years down the road, you look at the  
24 Oakwood Field and, you know, instead of having a well darn

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1 near every unit, you know, as you're extending your drilling,  
2 you know, you've got it in every other one, well there's  
3 something wrong there because the assumption of these grids  
4 was that essentially people would drill this field up and  
5 everybody would be included. The reason...I'm probably  
6 getting back to the bubble drawing, and there is a map in  
7 there that shows a lot of wells in this area. But, I mean, I  
8 think that we have demonstrated and spent the money to drill  
9 up these units and so have some of the other operators here.  
10 So, when you look at a map in a field that's ten or twelve  
11 years old, you're going to see a lot of wells. And so the...  
12 you know, the assumption that makes this kind of grid system  
13 work in theory is that it's ultimately going to be drilled  
14 up. I think that's bearing fruit. What's happening now as  
15 we drilled this up and we've got better data, we're realizing  
16 that we can get more gas out of the ground quicker for an  
17 investment that looks sensible and prudent on paper and we're  
18 coming back and saying what can we do to enhance the recovery  
19 from this area that we've already drilled up and we're maxed  
20 out now. So, that's...I mean, that's the...that's the reason  
21 for the return trip. You know, some of you guys...I don't  
22 think on the Board was here. But my first visit to this  
23 Board was in September of 1990. My clients sent me about a  
24 300 page fax on a Friday and said meet us Sunday night in

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1 Bristol because we need some help. And so...the law firm  
2 that I worked for was absolutely wild. I had their fax tied  
3 up for an entire day, you know. So, they bought another fax  
4 and gave it to me. And I came down here on a Monday. I  
5 looked at the...I said how many cases do we have? There were  
6 sixty-eight cases on the docket. I said, well, how many are  
7 ours? He said, forty-five. I looked at my watch, I thought,  
8 you know, I have less than a half an hour each to prepare for  
9 tomorrow, you know, even if I stay up all night. Anyway, we  
10 went to the...we went to the Bristol library. We would meet  
11 from like 9:00 in the morning until 8:00 at night, two days.  
12 At that point, we didn't have this. So, what we had...and I  
13 remember this clearly because it was kind of fun, we had  
14 circles everywhere. We had statewide spacing and everything  
15 was a circle. Sometimes when you'd start to look at some of  
16 the wells and some of the voluntary units, you know, you had  
17 circles like this. But what you also had was a ton of the  
18 people that owned property here that were never going to have  
19 a well and were never going to get a royalty. And  
20 essentially Consol and Oxy, who we represented at that point,  
21 came in and compared a grid system to what you have been  
22 living with in these circles and sold the correlative rights  
23 concept that, you know, if you're attending to the  
24 correlative rights, and obviously you've got to pay attention

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1 to the science and you've got to balance economics. I mean,  
2 if a primary factor is correlatives rights, no board is ever  
3 going to do this, you know, if you've actually got a  
4 legitimate choice. And so historically...you know, twelve  
5 years ago or thirteen years ago this Board made a decision  
6 that a grid system and spotting the operators some level of  
7 trust they were actually going to drill up the field. If you  
8 don't drill up the field, it's not working. But that was the  
9 approach that the Board was going to take. Now, when you  
10 look back, you know, the Oakwood field...I'm not nearly as  
11 familiar with the Nora, so I can't really talk about that.  
12 But I'm looking...I'm pretty familiar with the Middle Ridge.  
13 If you look at the Middle Ridge, I mean we're drilling up  
14 these units so that everybody is included, and you're not  
15 having this situation where these people aren't never going  
16 to get a penny. So, that's...you know, that choice was made  
17 for, I think, good reasons a long time ago. Once choices get  
18 made, you know, certainly we're not going to go back to  
19 square one. But I think we're at an instance now where I  
20 think the his...you know, some history of, you know, where we  
21 were twelve or thirteen years ago and where...you know, some  
22 choices that we collectively made to be. You know, the grid  
23 system really is a dramatic improvement over...and the  
24 statewide spacing in the statute is essentially a circle

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1 system. So, you know, if you don't implement field rules on  
2 some basis, that's what the statute allows you to do, which  
3 is not from a correlative rights standpoint.

4 BENNY WAMPLER: Well, the field rules, like you  
5 say, encourage an orderly development of the field...of the  
6 entire field. If you were avoiding units for malicious  
7 purposes, it should show up and that would---.

8 MARK SWARTZ: Well, there's pretty amazing stuff  
9 that we found when we started looking at development, you  
10 know, for purposes of illustrating what was out there and  
11 what we might want to do.

12 BILL HARRIS: Mr. Chairman, I---.

13 BENNY WAMPLER: Mr. Harris.

14 BILL HARRIS: ---want to go back to the spacing  
15 question again. We're talking about this additional well  
16 being one of the horizontally drilled wells, right?

17 BENNY WAMPLER: No.

18 MARK SWARTZ: No, vertical.

19 RICHARD LYLE TOOTHMAN, JR.: No, vertical.  
20 Vertical frac well.

21 BILL HARRIS: It is a vertical?

22 RICHARD LYLE TOOTHMAN, JR.: Yes, sir.

23 MARK SWARTZ: It's a frac well.

24 BENNY WAMPLER: No, that was a different---.

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1           BILL HARRIS: Oh, okay. I'm on the wrong page.

2           BENNY WAMPLER: Yeah, it was a different item.

3           MARK SWARTZ: Yeah, I'm not looking forward, but

4 we'll be here one of these days with that, too.

5           BENNY WAMPLER: They'll probably have that.

6           BILL HARRIS: Okay. I'm sorry.

7           BENNY WAMPLER: But that's not...that's not on our

8 agenda.

9           BILL HARRIS: Because I'm thinking as soon as this

10 thing goes hori...you know, there's only one horizontal

11 direction underneath that and that's going to be...okay, I'm

12 sorry.

13           MARK SWARTZ: That's okay.

14           RICHARD LYLE TOOTHMAN, JR.: No, this would be a

15 vertical well. Now, to address this same thing, you know, we

16 were essentially petitioning for roughly 60 acre spacing,

17 which is in that case, Mr. Wampler, you're talking about, you

18 know, maybe skipping units and that's why this is up there.

19 What the Board actually approves would be a...as I understand

20 it, was a second well in every unit. That's basically a 40

21 acre spacing. If you do that and you did it on a field wide

22 basis, there would be no different than what you've already

23 got there. If you did it in an orderly fashion, every unit

24 would have two wells there.

--

1                   So, you know, I think the mechanism...and I'm not  
2 proposing that we got to 40's. The only time that this is an  
3 issue is if you're in a position where a particular well like  
4 that is located is either going to draw in four units or two  
5 existing 80 acre units. If it went all the way to a 40 acre  
6 spacing, I don't see that it's any different with the  
7 exception that you've got two wells in an existing unit and  
8 you would develop that out. And quite frankly, as we  
9 presented the last time, that's kind of a hurdle right now  
10 depending on what we think our forecast of gas prices and so  
11 forth would be as far as an economic decision. So, I don't  
12 necessarily want to lock into that. On 60 acres, yeah,  
13 you'll have that. We do believe that if the wells are spaced  
14 appropriately, the benefit will be beyond one unit and we  
15 have testimony to provide that or to illustrate that as well.  
16 From the existing wells that are...that are already there,  
17 there was an increase in production in another area of the  
18 Oakwood Field Rules. Obviously, those people got a benefit  
19 in increased production and increased revenue. Some of that  
20 may be incremental production and some of it may be shifted  
21 up front. But in either case, it's real dollars in real  
22 pockets.

23                   MASON BRENT: I think given what the Board---.

24                   BENNY WAMPLER: Mr. Brent.

--

1           MASON BRENT: ---has already approved, that so  
2 called overlap unit there really could 80, I guess.

3           DONALD RATLIFF: It won't change the percentage.

4           MASON BRENT: Yeah.

5           RICHARD LYLE TOOTHMAN, JR.: That's correct.

6           MASON BRENT: It doesn't need to be 60.

7           RICHARD LYLE TOOTHMAN, JR.: No.

8           MARK SWARTZ: If you're allocating entirely to the  
9 four units. If you're only allocating people within the  
10 overlay unit, then the size of that unit makes a difference.

11          MASON BRENT: True. But if you're allocating a  
12 percentage, that's why---.

13          RICHARD LYLE TOOTHMAN, JR.: If you do that---.

14          MARK SWARTZ: Right. Absolutely. Absolutely. It  
15 does not matter.

16          RICHARD LYLE TOOTHMAN, JR.: What Mark was saying  
17 as far as the two extremes, we've already got instances where  
18 this well fits in this drilling window and it's very close to  
19 the edge. The production is not centered around that well.  
20 It goes out into this unit. What we're saying is, you know,  
21 on the extreme compared to what is shown right here if you  
22 put a second well, you know, on the edge of this window or  
23 whatever, your choice could also be to allocate that just to  
24 that unit. We think that this is a more equitable solution.

--

1 We're not opposed to that. The mechanism is already in  
2 place and there's already...no matter what system you look  
3 at, with this or this, you can always find falsies in  
4 applications. That's the bottom. The first fallacy in this  
5 is the fact that you've got a drainage radius that's  
6 absolutely circular. That's the case when you don't  
7 stimulate possibly. If it's a fractured reservoir, you're  
8 going to...you're going to drain according to where fracture  
9 is oriented. If you are officially fractured, you're going  
10 to drain...drain that way as well. So, there's...you know,  
11 there are already inherent fallacies in this system to begin  
12 with. This system is the same way, the only way it could be  
13 perfect is if you put a well absolutely in the center. And  
14 as we all know, in Virginia that's not very practical to do  
15 that. So, there will be some inherent fallacies no matter  
16 how you allocate.

17 BOB WILSON: Mr. Chairman.

18 BENNY WAMPLER: Mr. Wilson.

19 BOB WILSON: This kind of evolved out of a  
20 discussion of allowables, which I realize the Board has to  
21 address. For what it's worth, I agree 100% with what Mr.  
22 Toothman said about the appropriateness of allowable in  
23 coalbed methane development. We have used it in sealed gob  
24 units and the sort of thing where we are allocating two

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1 particular units...production of two particular units when  
2 it's appropriate there. Just the mechanics of the coalbed  
3 methane reservoir, I'm not sure are appropriate for  
4 allowables. I realize we have to address it in some fashion  
5 or another.

6 BENNY WAMPLER: That's all I wanted to do.

7 BOB WILSON: But I would suggest that maybe since  
8 we...basically the Board last week...last month approved the  
9 drilling of a second well in each unit, and I wonder if maybe  
10 if we determine how that well is going to be drilled, whether  
11 we do allow it to be drilled within 600 feet of another well  
12 as the application asked or not or inside or outside the  
13 window, that decision may actually have a bearing on what is  
14 decided to do in response to the statute requiring that you  
15 address allowables. I'm wondering if maybe we didn't get the  
16 cart before the horse a little bit on the allowables. Maybe  
17 we need to determine the other first and then go back.

18 I want to pass out to the Board here, we have  
19 actually received permit applications in anticipation of this  
20 Board order for a second well in the unit. Now, the operator  
21 understands that I cannot issue this permit until we have a  
22 signed and executed order here. But they have submitted an  
23 application. If I could get that (inaudible). This is the  
24 plat that they submitted with that. This came in very

--

1 recently. I wasn't aware of it myself.

2 (Bob Wilson hands out the application and plat.)

3 BOB WILSON: In this particular application, which  
4 is the FF-23 unit, which falls within the boundary of what's  
5 being discussed for the modification of the field rules. As  
6 you can see, the proposed second well is in the Southwest  
7 corner of that unit, within the drilling window. We have to  
8 treat it in the original field rule.

9 BENNY WAMPLER: I'm not sure I'm totally on the  
10 same wavelength with you on your previous discussion about  
11 the cart before the horse kind of thing. What I was trying  
12 to do is get a discussion on record about...because the Board  
13 has to address allowable production. Part of that same  
14 discussion was whether or not there was a request as part of  
15 this application, as we were hearing it, to disregard the 600  
16 foot distance between wells. What I heard was, there's...  
17 there's no proposal to disregard that. In fact, that would  
18 remain intact.

19 BOB WILSON: Okay. Yeah, I guess that would need  
20 to be---.

21 BENNY WAMPLER: The application said something---.

22 BOB WILSON: The application did ask for that.

23 BENNY WAMPLER: Right. And I heard them say that  
24 that was not a problem---.

--

1           MARK SWARTZ: Right.

2           BENNY WAMPLER: ---to maintain the 600 foot  
3 distance between wells. Is that correct, Mr. Toothman?

4           RICHARD LYLE TOOTHMAN, JR.: That's correct.

5           BOB WILSON: And the point that I was making was  
6 that maybe if the decision is made as to what constraints are  
7 going to be placed on the second well that has been approved  
8 in each unit, that some of the other aspects may actually  
9 fall into place.

10          RICHARD LYLE TOOTHMAN, JR.: Bob, I will state one  
11 thing. In this particular unit, if we go to a second well in  
12 every unit, what we brought before the Board initially was to  
13 place a well anywhere in a unit including outside. Now, with  
14 the contingency that we stay within the drilling window and  
15 the fact that if we adhere to a 600 foot, if for instance  
16 what's before you, if this well FF-23 was dead square in the  
17 middle, Mr. Wampler, of that unit, that would preclude Consol  
18 from ever putting a second well in that unit as it stands.  
19 So, under your own...under your own guise of trying to be  
20 Equitable with every unit, it would, you know, basically  
21 preempt us from allowing us to do anything like that if you  
22 put both of those stipulations on us at the same time. I  
23 just wanted to clarify that so you understand. With the 600  
24 foot and staying inside the drilling window with the

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1 originally units, there will be some units that we cannot put  
2 a second well in.

3           MARK SWARTZ: And the other, I think, problem is  
4 this unit is a bigger unit too. You know, this is an 89 acre  
5 unit. So, it's going to be stretched a little bit. So, if  
6 it was an 80, it would show it was a little tighter. There's  
7 a little more room to roam.

8           DONALD RATLIFF: Mr. Chairman, so that I'm not  
9 confused, since this...both of these wells in this example...  
10 in this application are in the drilling window we're not  
11 looking at an overlay here, right?

12           BENNY WAMPLER: Right.

13           DONALD RATLIFF: This would stay in the confines of  
14 this...this area. It's only when we're outside of the  
15 drilling window.

16           BOB WILSON: If I may, I would suggest---.

17           BENNY WAMPLER: Mr. Wilson.

18           BOB WILSON: ---that if under the application that  
19 just came in now, the FF-23, there would be no correlative  
20 rights problems associated with that.

21           MARK SWARTZ: But, you know, the problem admittedly  
22 ...you know, but the problem remains that if you're going to  
23 try to develop a uniform spacing over a large area, there are  
24 going to instances where we can't put two wells in a drilling

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1 window and maintain that kind of spacing in the field, and  
2 that's...that's the problem. And we need the flexibility  
3 to...you know, to give you...to put these things back up  
4 here. Here---.

5 BENNY WAMPLER: Where do you need the...I don't  
6 mean to interrupt you. But where do you need it?

7 MARK SWARTZ: When you're starting to look at this  
8 and the next well is going to be somewhere in here. I mean,  
9 if you trying to get kind of a uniform distance between wells  
10 throughout the field you're going to...some of the time  
11 you're going to be lucky and you're going to get in a  
12 drilling window. Some of the time you're going to have to be  
13 in some pretty, you know, unusual spots to get the  
14 interference...you know, to get the, you know, relatively  
15 uniformed distances between wells throughout...distributed  
16 throughout the field to get the kind of interference you're  
17 looking for. So---.

18 BENNY WAMPLER: If you have...I don't mean to  
19 interrupt you, but if you have...if you're inside...every  
20 time you put a second well in and you're inside the window  
21 and you don't have the 600 foot distance separation, is that  
22 a practical development of the field? Can you always get it  
23 in the window if you don't have that limitation?

24 MARK SWARTZ: Yeah, but we wouldn't drill that

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1 well. What Rick is telling you...and the reason why we  
2 didn't put it in the application and never pursued it because  
3 as we got down the road, we weren't going to be drilling  
4 wells closer than 600 feet. So, it's not something that...I  
5 think that was even in the original Oakwood rules, if I'm not  
6 mistaken.

7 RICHARD LYLE TOOTHMAN, JR.: Well, drilling them  
8 closer than 600 foot would be the stipulation that you'd have  
9 to stay in the drilling window. I mean, that's kind of---.

10 MARK SWARTZ: Yeah. But we're not...we're not  
11 going to make that choice probably---.

12 RICHARD LYLE TOOTHMAN, JR.: No.

13 MARK SWARTZ: ---because we're not going to put  
14 wells that close together. I mean, it's not an economic...an  
15 economically justifiable decision is the problem that we  
16 would have drilling closer to 600 feet.

17 RICHARD LYLE TOOTHMAN, JR.: That's right.

18 BENNY WAMPLER: I'm just trying to get the issues  
19 laid out---.

20 MARK SWARTZ: No, that's a fair question. I mean,  
21 that's---.

22 MASON BRENT: You know, I kind of think where I am  
23 on it or which way I'm headed is, you know, you can put as  
24 many wells as you want within the window and, you know,

--

1 not...you know, not impact the rest of this. But when you  
2 get out of the window---.

3 MARK SWARTZ: Right.

4 MASON BRENT: ---that's when...you know, where I'm  
5 leaning that's when I would, you know, want to tell you,  
6 okay, that's fine. But it can't be any closer than 600 feet  
7 to another well within or without the window in any unit.  
8 Then at that point, maybe within in a overlay, an 80 acre  
9 unit there just for the purposes of determining percentages  
10 to allocate to the impacted units.

11 RICHARD LYLE TOOTHMAN, JR.: Maybe it would be  
12 helpful to just kind of tell you how we...I know Les threw  
13 out some numbers last week. But essentially with that map  
14 that has the existing well locations on there, what he  
15 basically did was draw a uniform...granted it's an  
16 assumption, but a uniformed circle around each one of  
17 those...of those wells and then found locations where there  
18 was big gaps, kind of to Mark's illustration over here, where  
19 we could...where could we put a well and put another circle  
20 in there and minimize the overlap. Actually, he had several  
21 places in there where was zero overlap. That was the first  
22 locations we want to. Then there was some others that he put  
23 in a different color that there might be just a slight  
24 overlap on the edges. That's what we were proposing right up

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1 front. Unfortunately when you do that, some of those  
2 wells...some of them fell right in drilling windows. It's  
3 not a problem for us. But some of those wells, and I don't  
4 what portion of those, you may be able to address that, did  
5 fall outside the drilling units. Now, in order to move it,  
6 you can move it a drilling unit, but again...and what you're  
7 kind of doing with that circle is that you're leaving  
8 some...you're not as uniform as you should be and you're  
9 leaving some areas that probably don't have adequate  
10 coverage. You're duplicating on some other...some other  
11 areas. But that...that is at least the mechanism of what  
12 initiated this as to how...as to how appropriately develop  
13 it.

14 BENNY WAMPLER: In your professional opinion, how  
15 best to protect the correlative rights under this  
16 application?

17 RICHARD LYLE TOOTHMAN, JR.: In my professional  
18 opinion, with way things are set up right now, I would...I  
19 would support what Mr. Arrington has proposed and pay all the  
20 appropriate units. I think it would be somewhat of a  
21 nightmare to one if this is already being allocated with the  
22 well sitting over here across this entire unit. But I think  
23 ...I think they should all share in the benefit directly from  
24 a well placed outside of the unit that could drain their

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1 acreage. They will also benefit if, in fact, this well does  
2 create some interference and these wells go up there.  
3 They're already going to reap a proportion of the benefit  
4 from that. So, I think that's a very fair allocation to do  
5 that across the area and pay that way. Again, I'm sure  
6 there's fallacies with whatever approach you take. But I  
7 think that's the fairest approach to protect everybody in the  
8 immediate area.

9           MARK SWARTZ: Another point that Rick made last  
10 month that may have escaped some of you. Rick, as you put in  
11 more wells the production of the existing wells will decline  
12 slightly over the long haul. So, you'll get more production  
13 from the acreage, but less per well.

14           RICHARD LYLE TOOTHMAN, JR.: That's correct.

15           MARK SWARTZ: So, there is...what he's...this is  
16 another point they made last month. I think is an argument  
17 to be made that people who are in this well ought to reap a  
18 benefit from this well because if it's...if it's accelerating  
19 ...you know, we know it's going to accelerate the production  
20 from this well because there's going to be a balance. So,  
21 they're going to get more gas quicker, but ultimately it's  
22 going to be less total over some much longer period of time.

23    So, I mean, there is an argument that the effect on this  
24 well, both positive and negative, justifies the allocation

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1 over the larger area.

2           RICHARD LYLE TOOTHMAN, JR.: That's right. You're  
3 getting...you're looking at the two...to reiterate, you're  
4 looking at production per unit will go up, production per  
5 well will go down. If that was not the case, we'd drill  
6 fifty wells in that unit because we're going to get another  
7 half a bcf every time we drill. We know that's not  
8 practical. What you're doing is greater percentage of what  
9 gas is in place. Every well you get in there, you know, in  
10 the beginning it may be a 30% increase or 20. You'll get to  
11 a point that you drill another well and you only get a 2%  
12 increase. But now if you divide that production by the  
13 number of wells in the unit, saying instead of this thing  
14 going 550,000,000 cubic foot over the life of the well it may  
15 only do 450. So, if this person is not paid by putting a  
16 well in there. Effectively he has been reduced. We don't  
17 think that's fair. And that's why...and Mark said, that's  
18 not just from (inaudible) standpoint. That's why I think  
19 it's fair to allocate it according the people's ownership in  
20 all of those units to do that.

21           If you're inside the drilling window and the way  
22 things are being allocated now, effectively you're just...  
23 they don't care if there's another well in there or not  
24 because they're getting that total production. The

--

1 allocation is exactly the same. So, I'm sure they  
2 would...from a royalty standpoint would invite you to drill  
3 as many wells as you want.

4 BENNY WAMPLER: So, when you're outside the  
5 drilling window, the pay area would be...the well would be  
6 the center of the 80 acre pay area. Is that what you're  
7 saying?

8 RICHARD LYLE TOOTHMAN, JR.: You would...you would  
9 draw a...yeah, you could draw a 60 or a 80. The allocation  
10 is going to be the same as far as your acreage. But you  
11 would draw a square around that exact well location and then  
12 pay the units appropriately to the acreage that would come  
13 into it.

14 MASON BRENT: The allocation may not be the same  
15 using a 60 or an 80. I don't believe. Because you may  
16 move...with a 60 the line might come here. With an 80, then  
17 you can...you come over here and you can incorporate a couple  
18 units. I---.

19 RICHARD LYLE TOOTHMAN, JR.: That's possible.

20 BENNY WAMPLER: Yeah.

21 RICHARD LYLE TOOTHMAN, JR.: In this...in this  
22 instance, it wouldn't change. Here...you are correct. If  
23 you...if you---.

24 MASON BRENT: Since...since the field is 80 acres,

--

1 it ought to be consistent to stick with 80 acres.

2 RICHARD LYLE TOOTHMAN, JR.: I don't think we've  
3 got a problem with that. Do you have any problem?

4 LESLIE K. ARRINGTON: No.

5 RICHARD LYLE TOOTHMAN, JR.: I mean, 40 acre or 80  
6 acre, however you want to draw a square. Like I said,  
7 that's...that's one of the assumptions that goes...that goes  
8 into it.

9 MASON BRENT: Certainly who's involved and who's  
10 not.

11 RICHARD LYLE TOOTHMAN, JR.: Yeah, it could. If a  
12 well is located possibly where Mark drew that extra square  
13 down there and you drew a 60 or an 80, you may...you may  
14 possibly bring in more...two more units. Knowing when you do  
15 that though, it's going to be a very small percentage to  
16 those units because they're going to be on just the very  
17 edge.

18 BENNY WAMPLER: Well, understand one thing, you  
19 know...recognize, you know, the deal about once you drill the  
20 80 acre, then you, you know, if you're going to drill more,  
21 you come back and propose some other field rule. We have  
22 testimony today that supports a drainage of a 80 acre unit.  
23 And if we stay with an 80 acre, that's what Mr. Brent is  
24 talking about, we don't really have, in my opinion, technical

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1 support for a 60 acre unit based on...you know, you  
2 testified...you laid out a plan. But we really didn't get  
3 into how much...how much you'd already drained. How much of  
4 the unit was capable of producing and all those kinds of  
5 things. We didn't get into a lot of detail to talk about  
6 whether or not 80 acre was currently feasible. If we stay...  
7 to me if...and I'm just...from my prospective, I'm one member  
8 on the Board here. From my prospective, if we stay with the  
9 80 acre theory there that...that makes some sense to me when  
10 you're outside that window that we've got...that we have the  
11 technical support to back that up.

12 MASON BRENT: Also, because we're only dealing with  
13 a portion of the field here now.

14 BENNY WAMPLER: That's right.

15 MASON BRENT: There are other people that are not  
16 impacted by this that are constrained by the 80 acres.

17 BENNY WAMPLER: Right.

18 MASON BRENT: Something everybody in the field  
19 should be constrained by 80.

20 BENNY WAMPLER: Mr. Wilson, you're hiding behind  
21 one eye.

22 (Laughs.)

23 BOB WILSON: Are there going to be problems when  
24 you overlap the overlapping unit? In other words, if you put

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1 another unit under your second as you illustrated there,  
2 you're not only overlapping the existing 80 acre units---.

3 BENNY WAMPLER: You know, our theory is to pay  
4 everybody every time you overlap. We've been real clear on  
5 that as a Board. Can you simplify it for us? We're open  
6 here.

7 MASON BRENT: Bob, some of your concern will be  
8 mitigated to some extent, I would think, by the 600 foot  
9 spacing.

10 BOB WILSON: I'm sorry?

11 MASON BRENT: I think your...to some extent your  
12 concern will be mitigated by the 600 foot spacing, minimum  
13 spacing between the well. It's not going to totally do away  
14 with your concern though.

15 BILL HARRIS: I'm not sure...I think I see his  
16 point. Can I go to the---?

17 BENNY WAMPLER: Sure.

18 BILL HARRIS: Let me go to the board here.

19 BENNY WAMPLER: Absolutely. We want to make sure  
20 we understand it.

21 BILL HARRIS: Well, I think...you're talking about  
22 this other...maybe a well goes in here and then you're  
23 looking at an 80 acre square around this. Overlap with the  
24 other 80 acre that's there. There's also lapping into the

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1 two 80 acre units below that.

2 BOB WILSON: Actually, they are 60 acre units  
3 possibly below that as well.

4 MARK SWARTZ: We're not going there.

5 BENNY WAMPLER: That's not before us.

6 MARK SWARTZ: We're not...we're not going there.

7 BENNY WAMPLER: These are specific units before us.

8 MARK SWARTZ: Right.

9 BENNY WAMPLER: I mean, that's the other thing Mr.  
10 Brent was pointing out. For these specific units.

11 BOB WILSON: So, it will not overlap into the Middle  
12 Ridge Field under any circumstance?

13 MARK SWARTZ: Well, the problem is if you go from a  
14 60 to an 80, it's going to keep us further from the Middle  
15 Ridge line and it's going to cause us to drill less wells. I  
16 mean, that's the only negative...I understand that the  
17 simplicity of we're always an 80, you know, area. The one  
18 downside of going from 80 to a 60 is it's going to keep us  
19 some extra distance off of the south boundary of these units  
20 because we can't get in the Middle Ridge.

21 BENNY WAMPLER: Well, maybe or maybe not. We don't  
22 have that before us.

23 MARK SWARTZ: I understand.

24 BENNY WAMPLER: We may deal with that.

--

1           MARK SWARTZ: I understand.

2           MASON BRENT: I'd like...Mr. Swartz, I wasn't  
3 approaching it from a simplicity standpoint. I was  
4 approaching it from an equatability standpoint in that the  
5 60, there are case where you would include people being  
6 involved---.

7           BENNY WAMPLER: Right.

8           MASON BRENT: ---or they would be---.

9           MARK SWARTZ: Oh, 80 includes more people,  
10 absolutely. All I'm saying, the only downside from this  
11 particular situation that we're dealing with today if we go  
12 with an 80, and you don't hear us objecting to that, I'm just  
13 making this observation, then we're going to...we're going to  
14 have to stay further from the Middle Ridge line or come back  
15 here and really pick that scab as well, you know.

16           BENNY WAMPLER: Well, here again, I was just  
17 pointing out, as you're well aware, we have the specific  
18 units you've asked for this time.

19           MARK SWARTZ: Right.

20           BENNY WAMPLER: We don't have that other. When you  
21 do come back, I'll would assume you would propose something  
22 to address that and we would consider that.

23           MASON BRENT: And just to put things in  
24 perspective, we're only talking about this little area here

--

1 and its impact on the Middle Ridge, which is a lot bigger  
2 area.

3           RICHARD LYLE TOOTHMAN, JR.: I think only Mark's  
4 attempt is to set up precedent that in the event that we want  
5 to move or include this, that we don't start from square one.  
6 That we've got something that we can live with, the Board  
7 can live with and, you know, something that can be  
8 implemented fairly. If we see other areas of which...you  
9 know, I'll tell you right now there may be some other areas  
10 that we would like to address to the Board in the near  
11 future. We're just trying to bring that together and not  
12 hodgepodge field rules so that we've got one set of rules for  
13 this and we apply for another square somewhere else and we've  
14 got to establish something completely different because I  
15 don't think that's real equitable. If there are people  
16 outside of Consol here, I think that's where you'll create a  
17 lot more problems for us and the Board in the fact that it's  
18 not implemented in the same fashion.

19           MARK SWARTZ: I think it's reasonable to assume  
20 that, you know, when you show this proposed area, it is a  
21 little area and we're going to be back, you know, and we're  
22 going to...we're going to say we spent a lot of time fixing  
23 this. Is it a solution that we can implement elsewhere?  
24 Absolutely. I mean, you know, you need to have that in mind

--

1 that it's not just a band-aid, but it's an approach for  
2 further development, you know, in an ultimately largely area.

3 RICHARD LYLE TOOTHMAN, JR.: That's right.

4 BENNY WAMPLER: But I would think that you would  
5 have some experience with those wells at that time and you  
6 could talk about production and declines and everything else  
7 and we'd have more facts that in fact could change, You know,  
8 I'm not saying it would, but could change what we would do in  
9 the future.

10 MARK SWARTZ: Well, I think what's cause...you  
11 know, what causes us to come back here, you know, we actually  
12 do have now the experience. When were here in the Middle  
13 Ridge we didn't...you know, we had the Haliburton study, I  
14 think and we had some data that we didn't have...as you guys  
15 recall, the short lines are the actual data. So, we have...  
16 you know, we'll have more. But it looks like, you know, the  
17 models that we've created are bearing the interference models  
18 and the production models are working out in the field and,  
19 you know, we'll have more data from this...however many units  
20 this is.

21 LESLIE K. ARRINGTON: 36.

22 MARK SWARTZ: 36. We'll have some more production  
23 data as well. But I think the important concept is, you  
24 know, that you need to have in mind that it's likely that we

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1 or other people will be back here. We would like to do the  
2 same thing somewhere else in the Oakwood Field. So, we'd  
3 like to implement something that can be transported.

4 MASON BRENT: Maybe this Board would prefer to burn  
5 that bridge when we get to it.

6 MARK SWARTZ: Oh, yeah. Well, that's why we only  
7 limited it to this because there are differences in the  
8 Oakwood Field, you know, in coal thickness, gas content. You  
9 know, there are some areas that we would not be talking about  
10 doing this because the geology and the production doesn't  
11 justify it. There are some variability.

12 BOB WILSON: Mr. Chairman.

13 BENNY WAMPLER: Mr. Wilson.

14 BOB WILSON: If a...and this was discussed some  
15 last month. If the concept of the floating unit is adopted  
16 regardless of whether it's 60 or 80 acre, is that going to  
17 require that...to come back before the Board to pool any  
18 acreage that was pooled under the existing order into the  
19 existing units. There was some conversation about this last  
20 time. As I remember, the general thought at that time was  
21 that they would have to come before the Board with those  
22 units.

23 MARK SWARTZ: I don't think that we have to pool  
24 them, but we need to get a supplemental order.

--

1           BENNY WAMPLER: That's right.

2           MARK SWARTZ: You know, if...if...if...you know,  
3 let's just take the...you know, a common problem. Let's say  
4 that if this unit was pooled before and this was a voluntary  
5 unit and this was a voluntary and this was pooled. When you  
6 pool it, you pool the coalbed methane, you know, from the  
7 Tiller on down. So, I mean, you know, that's half of it. I  
8 would think that would just have to come back with a  
9 miscellaneous petition or whatever to allow us to pay the  
10 pooled units their allocated percentage because it's going to  
11 be different than the original order ordered us to pay. But  
12 I'm assuming we would be back. Now, if you guys want us to  
13 come back and repool it, I mean, I don't...I think we've  
14 already pooled the coalbed methane. So, it's payment issue  
15 and not a pooling issue. But I think we need to make a  
16 return trip because the Board order in terms of payment is  
17 not going to address, you know, the situation that we have.  
18 But I see it as requiring less time and effort.

19           BOB WILSON: I don't know what the legal aspects of  
20 it are. You now have owners who were pooled into an 80 acre  
21 unit under Oakwood I Field Rules. Does that pooling have any  
22 validity into a new unit that's formed?

23           SHARON PIGEON: If we're talking about 80, again, I  
24 tend to agree with Mark. As long as we're sticking with the

--



1 80, which is what everyone is bound by from the original  
2 field rules, then we've done the pooling and we just need to  
3 supplement the order for payment. But if we start changing  
4 the size on the unit---.

5 MARK SWARTZ: I don't know that's it's 60...I don't  
6 know that I agree with you. But I think I agree with you in  
7 terms of unit size. But I think regardless of unit size, we  
8 need to come back because the payment terms of the order are  
9 going to be...are not going to address the production that  
10 we're obtaining. You know, probably to the extent...let's  
11 say we put the additional well---.

12 BENNY WAMPLER: Plus you've got the cost of the  
13 well.

14 MARK SWARTZ: Well, if we put the additional well,  
15 you know, over here in a pooled unit, well it may not...the  
16 pooling order may not have allowed us to...you know, so I  
17 think we're going to need a...you know, a return trip on  
18 pooled units.

19 SHARON PIGEON: But not to repool it.

20 MARK SWARTZ: No, we pooled their coalbed methane.

21 SHARON PIGEON: Right.

22 MARK SWARTZ: It would be a modification of the  
23 existing order to allow an allocation.

24 LESLIE K. ARRINGTON: I don't...I don't see that we

--

1 need that. If that unit is pooled, only do we need to come  
2 back before the Board if we want to collect the proportional  
3 part of the costs for that additional well? We've---.

4 MARK SWARTZ: Yeah, but how are we going to escrow  
5 how we're going to pay---?

6 LESLIE K. ARRINGTON: It's only an allocation to  
7 that unit. You pay it...if you're allocating 20% of that  
8 well, just 20% of that production goes into---.

9 MARK SWARTZ: The escrow agent is not going to take  
10 the money.

11 LESLIE K. ARRINGTON: Why not? It's just a check.

12 MARK SWARTZ: There's no order.

13 LESLIE K. ARRINGTON: There's a check there that  
14 goes to the escrow---.

15 MARK SWARTZ: On the well. I mean---.

16 BENNY WAMPLER: You have to have an order on that  
17 well. Everything would have to be---.

18 SHARON PIGEON: Yeah.

19 BENNY WAMPLER: ---based on that well. I think  
20 that's what Bob is getting at. It's a different---.

21 LESLIE K. ARRINGTON: A supplemental order, okay.

22 BENNY WAMPLER: ---it's a different well.

23 LESLIE K. ARRINGTON: Okay, okay.

24 MARK SWARTZ: But she would enter...we wouldn't be

--

1 repooling this. We would be back here on a miscellaneous  
2 petition or whatever to enter a supplemental order to take  
3 this into account.

4 BENNY WAMPLER: Well, I don't know that we have to  
5 go there. I would just say that we'd have to have...we'd  
6 have...you've have to come back before the Board on that  
7 additional well, and, you know, whatever stems from that will  
8 stem from that. I can't...you know, I haven't thought  
9 through that well enough to know exactly how you'd have to do  
10 that at this point.

11 MASON BRENT: I think we're not...the way my...I'm  
12 thinking about this, we're not...number one, we're not  
13 creating a new unit per se.

14 MARK SWARTZ: Right.

15 BENNY WAMPLER: It pays on, if you will.

16 MASON BRENT: Right.

17 MARK SWARTZ: Right.

18 MASON BRENT: Distribution of the production income  
19 is what we're talking about. So, I would think they would  
20 have to come to the Board for two things. One...well, at  
21 least two things. One, is to satisfy us that they've  
22 maintained the 600 foot distance between the wells.

23 BENNY WAMPLER: Right.

24 MASON BRENT: Secondly, to demonstrate to us what

--

1 the percentage of the production allocation is to the  
2 affected units, right? And then there's got to be an order  
3 that distributes that percentage to those...to the affected  
4 units.

5 MARK SWARTZ: It's just sort of what we do with a  
6 supplemental order.

7 SHARON PIGEON: Uh-huh.

8 MARK SWARTZ: And, I mean, that's basically a  
9 supplemental order issue because we would submit the numbers  
10 and it's almost perfunctory. But, I mean, now wether or not  
11 we actually have to get it on your docket or we could do it  
12 by a complete supplemental order, I don't know. But, I mean,  
13 I think...I think we need an order.

14 BOB WILSON: I don't see how you can do that under  
15 an existing docket number. You're going to have to have, I  
16 believe, a new docket number. And I definitely...I think we  
17 are, in fact, creating a new unit. It's going to have its  
18 own docket number. I don't see how we can do it otherwise.  
19 I don't see any mechanism for taking care of that particular  
20 scenario without an individual docket number and individual  
21 Board action.

22 MASON BRENT: Okay, but it's...I mean, it's not a  
23 new unit from the standpoint of determining percentages of,  
24 you know, the parties involved with the mineral rights and

--

1 all of that and then pooling them into this new unit. We're  
2 not talking about doing that.

3 MARK SWARTZ: And they already had that opportunity  
4 to elect because there's already a well there. You know, so  
5 all we're talking about is how we're going to distribute the  
6 proceeds of this infill drilling.

7 BOB WILSON: Part of what I'm trying to figure out  
8 is how I'm going to explain this to people when our phone  
9 rings.

10 MARK SWARTZ: Well, if they're over here, okay, you  
11 just smile really big and you say, "You won the lottery".  
12 (Laughs.)

13 MARK SWARTZ: I don't know. I mean, it's hard to  
14 explain.

15 BENNY WAMPLER: Well, you've got different  
16 percentage...people that own different percentages of---.

17 MARK SWARTZ: That are already determined.

18 BENNY WAMPLER: Yeah, they're in there somewhere.  
19 You're coming in with this area here. I mean, I'm more  
20 leaning like Bob says myself personally from that well and  
21 you affect all those percentages.

22 MARK SWARTZ: Well, not really because---.

23 BENNY WAMPLER: Potentially.

24 MARK SWARTZ: Well, if they're---.

--

1           BENNY WAMPLER: Depending on who you touch.

2           MARK SWARTZ: We're only calculating four numbers.

3   Let's say that this is...this is Mr. Brent's 80, this

4 square.

5           BENNY WAMPLER: Right.

6           MARK SWARTZ: We're calculating four numbers.

7 What's this percentage? What's this percentage? Then these

8 two percentages? Do...we then apply these percentages to the

9 production from this new well.

10          BENNY WAMPLER: Right.

11          MARK SWARTZ: And that cash flows to these four

12 units and there's already...the ownership percentages---.

13          MASON BRENT: Apply the percentages---.

14          MARK SWARTZ: ---established either in a voluntary

15 basis in your pooling order. So, we've got the tract IDs and

16 we've got the percentages, and all you need to do is put your

17 seal of approval on these four numbers that say this amount

18 of revenue...it's very similar to the gob...the longwall

19 panels because you're allocating the portion of the panel

20 that's in the unit on a percentage basis to everybody in the

21 unit even though the panel may not...you know, so I mean I

22 think we've got...historically, you've done this with our

23 longwall panels.

24          BOB WILSON: Are you going to multiply the

--

1 percentage of that section that falls within that unit times  
2 the percentage per each individual in that unit is already  
3 getting out of that order to find out what each individual  
4 gets out of the---?

5           MARK SWARTZ: Right. I mean, this percentage goes  
6 times...goes times the total dollars on this new well,  
7 whatever this number four percentage here. That comes in as  
8 revenue of this unit that we've got the basis to split it on  
9 a unit percentage because the prior order established that.  
10 So, you're really only...you're making this one calculation  
11 to as to the four ways that this...or the four pieces that  
12 that---.

13           MASON BRENT: If I'm in that unit up there and  
14 let's say I have a 20% interest in that unit and we calculate  
15 here that this is 20%...this area represents 20% of that new  
16 well, then whatever that is, I'm going to get 20% of that.

17           MARK SWARTZ: Right.

18           RICHARD LYLE TOOTHMAN, JR.: 20%. You'll get 20 of  
19 the 20 in your example is what you'd get.

20           BOB WILSON: But that will have to be detailed in  
21 this order that you're talking about, supplemental, or  
22 whatever, actually in the order.

23           MARK SWARTZ: Yeah. I mean, I don't think it's  
24 that...I mean, it will be a map that will have however many

--

1 units the new unit intersects. And it will have...you know,  
2 if there's four units, there will be four percentages. And  
3 then it will simply allow us to escrow the money to the  
4 extent that there was escrow, allow us to pay directly to the  
5 extent there were split agreements, and set the percentage to  
6 allocate the money of the unit where we...I don't...I mean, I  
7 see this as a map, you know, and page or two.

8 BOB WILSON: Mr. Chairman.

9 BENNY WAMPLER: Mr. Wilson.

10 BOB WILSON: If I may suggest a possible direction  
11 here to maybe break a log jam, or at least stimulate some  
12 more conversation, which we probably don't need.

13 BENNY WAMPLER: That's what we're here for.

14 BOB WILSON: Possibly could the Board consider  
15 authorizing the drilling of the second well without  
16 consequences in any unit where the well could fit with inside  
17 within the drilling window as defined under the Oakwood II  
18 order.

19 MARK SWARTZ: I thought that was what we were  
20 headed.

21 BOB WILSON: And, secondly, any floating unit or  
22 whatever you want to call this, since it has come back before  
23 the Board anyway---.

24 BENNY WAMPLER: Any outside...any well outside the

--



1 unit...the window.

2           BOB WILSON: Any well outside the drilling window,  
3 would have to come before the Board anyway and be approved at  
4 that time according to whatever presentation you make on  
5 that. This would allow them to go forward in those units  
6 such as this one has been submitted here where the well falls  
7 within the unit...with the drilling window, excuse me, and  
8 since the other units have to come back before the Board  
9 anyway, then they can consider them on an individual basis.

10           MARK SWARTZ: I mean, I'm saying we're going to  
11 file a miscellaneous petition. So, I'm not really arguing  
12 with you. I mean, I think what you...you may have  
13 expectations that are different than ours in terms of what we  
14 need to accomplish when we come back to the Board on those.  
15 But, you know, we're going to...we're in agreement that we're  
16 going to be back. It's just a matter of maybe disagreeing  
17 about what's going to be accomplished when we come back.

18           BOB WILSON: That's my point.

19           MARK SWARTZ: Right.

20           BOB WILSON: And I'm not...I'm not agreeing or  
21 disagreeing. I'm not sure I understand how it's going to  
22 work enough to agree or disagree. What I'm trying to come up  
23 with is someway to let it go forward and, as I said, since  
24 these things we all agree have to come back before the Board

--

1 either way---.

2           MARK SWARTZ: Well, except...you know, if these  
3 were four voluntary units, we wouldn't be back here. I mean,  
4 there are some instances where the spacing would allow us to  
5 permit a well but would not require us to come to the Board.

6           BOB WILSON: Now, the order, I think, would have to  
7 address that and give...possibly give the permitting  
8 authority something like that in the way that the exceptions  
9 are allowed for drilling outside the window now in the field  
10 rules. I think it would have to be addressed some how or  
11 another if you're going to allow it to be drilled outside the  
12 window and it's a voluntary unit so you don't have to bring  
13 it before the Board.

14           MARK SWARTZ: Well, we certainly would have that  
15 discussion with you, Bob. But I'm just...I'm just saying  
16 that, you know, it is possible that if this were implemented,  
17 you know, in this area or other areas, that there would  
18 be...because there are instances where we have a lot of  
19 voluntary units, you know, adjacent to one another and there  
20 would be instances where allowing us to permit an additional  
21 well would only cause us to interact with you as opposed to  
22 coming here.

23           BOB WILSON: That's what I'm getting at. But it  
24 needs to be addressed in the order if one comes around.

--

1                   MARK SWARTZ: Right.

2                   BOB WILSON: Well, the order can simply say  
3 anything outside the window the inspector...just like we have  
4 it now. Then you send them to the Board on those that they  
5 need to come to the Board with would be the simplest way to  
6 handle it I would think, unless you feel that's...I mean, I  
7 think that's the discretion that you need.

8                   MARK SWARTZ: We're already doing that anyway.

9                   BENNY WAMPLER: Yeah. Keeping it consistent with  
10 what we're doing. I'll tell you one thing and then we'll get  
11 back on track on here. But one area you haven't addressed to  
12 me, or I'm too dense to understand it, is where you have an  
13 individual that had this portion of the pie and he hit this  
14 portion of the new. I can't understand how that doesn't  
15 change things for you.

16                   MARK SWARTZ: No. I...my understanding is we're  
17 allocating the four pieces of the new unit to the 320 acres  
18 here.

19                   BENNY WAMPLER: To the whole thing.

20                   MASON BRENT: Right.

21                   MARK SWARTZ: Right. So, that...yeah, but I can  
22 understand some confusion here because I think we...I think  
23 that has been a moving target. But I think that, you know,  
24 just watching you guys today in general, I think that's where  
--

1 you're headed, okay. Whereas I wasn't...I don't remember  
2 where I thought you were headed last. But that's the answer  
3 to your question.

4 BENNY WAMPLER: Okay. I'm---.

5 MARK SWARTZ: If that's where you're headed, that  
6 guy is perfectly fine.

7 BENNY WAMPLER: I understand.

8 MARK SWARTZ: If that's not where you're headed,  
9 that's a problem---.

10 BENNY WAMPLER: That's---.

11 MARK SWARTZ: ---which you've just highlighted.

12 RICHARD LYLE TOOTHMAN, JR.: But I think the point  
13 that Mark is making is that that allocation, depending on  
14 where that well is, is not necessarily 25% to all four of  
15 those units. If that well is located and it brings in 60% of  
16 that new proposed 80 acre unit, then his proportioned share  
17 will be 60% of that new production. Whatever percentage he  
18 owns in the original unit. If he owns 10...in your case,  
19 you're showing---.

20 MARK SWARTZ: It's like 50%.

21 RICHARD LYLE TOOTHMAN, JR.: ---about 50% of the  
22 original unit and then what Mark is drawing here, it's  
23 something more than 25%. If that's 40%, then he's going to  
24 get 50% of 40% of that production is the way he's going to be  
--

1 paid. This guy is going to be paid the same way. The only  
2 way...the only difference there is that regardless of where  
3 that's set up is that you're not paying 25% to all four  
4 squares. Then you'd be...basically it wouldn't matter how  
5 your square was just the fact...and you'll never bring in  
6 more than four squares. There's no way to do it if you're  
7 drawing a perfect square around it and it's an 80 acre unit.  
8 You can't do it. So, that would be the maximum affected  
9 unit size would be four. In fact, if you go 80s, you'll  
10 never have less...less than four. It will always be four  
11 units. There's no way to just do two units on 80 acres.

12 MASON BRENT: Are you sure?

13 RICHARD LYLE TOOTHMAN, JR.: Yeah.

14 MARK SWARTZ: Yeah. Unless you ask to except the  
15 units.

16 RICHARD LYLE TOOTHMAN, JR.: If you're looking...if  
17 you're looking at---.

18 (Laughs.)

19 RICHARD LYLE TOOTHMAN, JR.: If you move it  
20 over...you put a well here and you're moving it over, you're  
21 going bring your---.

22 BENNY WAMPLER: Rubin's cube.

23 (Laughs.)

24 MASON BRENT: Right smack on the line here.

--

1           RICHARD LYLE TOOTHMAN, JR.: Right smack on the  
2 line here. You're going to be right smack on this line here,  
3 which means that the only way...the only way you're going to  
4 bring it in is this and this down here. If you're on a line  
5 here, you're technically not in a unit.

6           MARK SWARTZ: You can even have two units.

7           LESLIE K. ARRINGTON: You can have two.

8           MARK SWARTZ: You can have two units.

9           LESLIE K. ARRINGTON: You're absolutely right.

10          RICHARD LYLE TOOTHMAN, JR.: I still don't  
11 understand how you're going to have two lines.

12          LESLIE K. ARRINGTON: In a perfect world---.

13          MARK SWARTZ: Well, Mason---.

14          RICHARD LYLE TOOTHMAN, JR.: No, you're not ever  
15 going to...you're never ever going to be on a line, Mark.

16          LESLIE K. ARRINGTON: The perfect world.

17          RICHARD LYLE TOOTHMAN, JR.: I mean, you're going  
18 to be inside the unit five foot.

19          MARK SWARTZ: It could happen. All I'm saying is  
20 it could happen.

21          RICHARD LYLE TOOTHMAN, JR.: You bring it in five  
22 foot and you bring it in four units.

23          MARK SWARTZ: It could happen is all I'm saying.

24          MASON BRENT: I'm sorry.

--

1           BENNY WAMPLER: He's just...he's just picking on  
2 you. Technically, he's saying you could do it.

3           RICHARD LYLE TOOTHMAN, JR.: I don't think you can.  
4 I don't think you can put it on a line.

5           BENNY WAMPLER: You're dealing with an institution  
6 over here.

7           LESLIE K. ARRINGTON: In a perfect world, it could  
8 happen.

9           BENNY WAMPLER: And we've got a physics professor  
10 over there. So, you don't want to be taking him on, I don't  
11 think.

12           (Laughs.)

13           BENNY WAMPLER: Okay. Any other questions from  
14 members of the Board?

15           (No audible response.)

16           BENNY WAMPLER: We probably have enough  
17 information. Is there a motion?

18           JIM McINTYRE: I make a motion that we approve the  
19 order as submitted.

20           KEN MITCHELL: Second.

21           BENNY WAMPLER: I guess the problem we have...just  
22 in the discussion phase, is there further discussion of that?

23           MASON BRENT: I'm not sure I know what's being---.

24           DONALD RATLIFF: I'm not either.

--

1           MASON BRENT: I'm not sure we're saying what has  
2 been submitted is---.

3           BENNY WAMPLER: Right. Right.

4           MASON BRENT: ---what we want to propose.

5           BENNY WAMPLER: Yeah, some of you weren't here last  
6 week. We...we went through and substantially changed what  
7 they submitted, I think, is the problem we're having here,  
8 what we've already approved and what we came back for today  
9 was to address the correlative rights issue. That's what  
10 we've been discussing here today.

11          SHARON PIGEON: The motion...the motion needs to be  
12 modified.

13          BENNY WAMPLER: Well, I don't have anybody  
14 proposing to modify the order. I have a motion---.

15          SHARON PIGEON: I don't think we know what they're  
16 making the motion on.

17          MASON BRENT: Well, I propose that we modify that  
18 motion, if you like.

19          BENNY WAMPLER: We can go either way. We can vote  
20 that one up or down, or propose a modification and see if  
21 that's acceptable to the original.

22          MASON BRENT: What I would propose, since at our  
23 last meeting, we approved the addition of another well in  
24 each unit in this affected area, I would move that we approve  
--



1 now that an additional well be allowed outside the window in  
2 each of these units that are before us here today, and that  
3 for approval of that well, the parties have to come back  
4 before the Board for approval, an additional well within the  
5 window is allowable without coming back to the Board.

6 BENNY WAMPLER: Would the one outside...just a  
7 question on that just to help clarify. The one outside that  
8 window would be up to the discretion of the inspector to  
9 refer them to the Board? That would cover the voluntary.

10 MASON BRENT: That's fine.

11 BENNY WAMPLER: Is that an acceptable modification  
12 of your motion?

13 JIM MCINTYRE: Yes.

14 DONALD RATLIFF: I'll second.

15 BENNY WAMPLER: Mr. Mitchell, is that acceptable?

16 KEN MITCHELL: Yes.

17 BENNY WAMPLER: Okay. So, we have a motion and a  
18 second. Any further discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying  
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24 (No audible response.)

--

1           BENNY WAMPLER: You have approval. Thank you.

2           MARK SWARTZ: Thank you.

3           BENNY WAMPLER: Do we need five minutes?

4           (No audible response.)

5           BENNY WAMPLER: Five minutes.

6           (Break.)

7           BENNY WAMPLER: The next item on the agenda is

8 adoption of the standard form orders, which are also proposed

9 to be submitted henceforth by petitioners. We left this open

10 until this...from the February docket until this month's

11 docket for additional comments and I guess we're today here

12 to adopt those absent any...and, of course, as of today, if

13 there are comments, if you'll come forward, we'd invite

14 parties to address the Board regarding those. State your

15 name for the record, please.

16           JIM KISER: Jim Kiser. I represent various

17 operators before the Board. I don't have any additional

18 comments. We did work through them for the petitions and the

19 applications we filed for the April docket. Other than

20 hearing some moaning and groaning from the clients, I think

21 it's going to work out fine.

22           BENNY WAMPLER: Any comments...additional comments

23 from the Board members?

24           (No audible response.)

--

1           BENNY WAMPLER: I'll entertain a motion to adopt  
2 those as form of orders.

3           DONALD RATLIFF: I move that we adopt them.

4           MASON BRENT: I second.

5           BENNY WAMPLER: Motion and second. Any further  
6 discussion?

7           (No audible response.)

8           BENNY WAMPLER: All in favor, signify by saying  
9 yes.

10           (All members signify by saying yes.)

11           BENNY WAMPLER: Opposed, say no.

12           (No audible response.)

13           BENNY WAMPLER: You have approval. Thank you.

14           Mr. Swartz, I'll ask you on these miscellaneous  
15 petitions, do you have any housekeeping of anything you have?

16           MARK SWARTZ: Well, you can call three of those  
17 together. It's the same problem.

18           BENNY WAMPLER: All right. Okay, the next items on  
19 the agendas is miscellaneous petitions from Pocahontas Gas  
20 Partnership to correct previous testimony given on 11/19/02  
21 concerning disbursement of escrowed funds for unit T-43,  
22 which was docket number 00-0321-0777; Q-44, which was docket  
23 00-0321-0780; and unit P-44, docket 00-0321-0778. We'd ask  
24 the parties that wish to address the Board in these matters

--

1 to come forward at this time.

2           MARK SWARTZ: Mark Swartz, Les Arrington and Anita  
3 Tester.

4           BENNY WAMPLER: Okay, do you want to swear Anita,  
5 unless you were previously sworn?

6           (Anita Tester was duly sworn.)

7

8

9

10

11

12                           ANITA TESTER

13 having been duly sworn, was examined and testified as  
14 follows:

15                           DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17           Q. Anita, in shorthand fashion, what was the  
18 problem that we needed to correct?

19           A. I had previously testified that it was going  
20 to be the James McGuire heirs and it should be Hurt McGuire  
21 Trust.

22           BENNY WAMPLER: Is that it?

23           (No audible response.)

24           BENNY WAMPLER: Any questions from members of the

--

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Is there a motion?

4 KEN MITCHELL: So moved.

5 DONALD RATLIFF: Second.

6 BENNY WAMPLER: Motion for approval and second.

7 Any further discussion?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying

10 yes.

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. Thank you.

15 MARK SWARTZ: Thank you.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: Before we lose Anita here, we have one

19 other thing that we need to correct from previous testimony.

20 This is under docket number 93-02/16-0326. There were no

21 issues regarding individuals on this. When we were preparing

22 the order, it was discovered that the testimony did not track

23 the documents. The order and the exhibits showed that Tract

24 No. 1 was to be disbursed and Tract 3 was to be retained.

--

1 The transcript got that backward. The testimony said to  
2 disburse Tract 3 and retain Tract 1. We just need to get on  
3 the record if, in fact, the documentation is correct and the  
4 testimony was incorrect.

5 BENNY WAMPLER: I'm not accepting Mr. Wilson's  
6 testimony.

7 (Laughs.)

8 BENNY WAMPLER: I'm waiting for you.

9 ANITA TESTER: Well, the way should be, it should  
10 have distributed Tract 1 and retained Tract 3 in escrow. It  
11 was just reversed.

12 BENNY WAMPLER: Okay. All right. So, do you need  
13 approval from the Board on that motion?

14 BOB WILSON: I think all we actually needed was to  
15 get it on the record.

16 BENNY WAMPLER: Clarify it for the record.

17 BOB WILSON: Sharon, do you think that's adequate?

18 SHARON PIGEON: That's fine.

19 BENNY WAMPLER: Sworn testimony on record.

20 SHARON PIGEON: You did get the docket number  
21 there, didn't you?

22 BOB WILSON: Yes.

23 BENNY WAMPLER: Yes, he added that in. Okay, thank  
24 you.

--

1           The next item on the agenda is a petition from  
2 Equitable Production for a well location exception for  
3 proposed well V-535463, docket number VGOB-03-0318-1123.  
4 We'd ask the parties that wish to address the Board in this  
5 matter to come forward at this time.

6           JIM KISER: Mr. Chairman and members of the Board,  
7 Jim Kiser on behalf of Equitable Production Company. Our  
8 witness in this matter will be Mr. Don Hall. He's going to  
9 hand out some exhibits and then we'll swear him in.

10           (Don Hall hands out exhibits.)

11           BENNY WAMPLER: Do you have any housekeeping on any  
12 of your matters today?

13           JIM KISER: Yes, I do. Item number nine is a  
14 petition from Equitable Production for the pooling of a  
15 conventional gas unit 535431. We need to ask that that be  
16 continued until the April docket. We found a...some title  
17 work found a one-twentieth undivided interest in Tract No. 3,  
18 which was bought by five or six different heirs that had not  
19 been notified of this petition. So, we filed an amended  
20 application on Friday of last week for the April docket.

21           BENNY WAMPLER: That will be continued.

22           BENNY WAMPLER: Mr. Hall, if you'd be sworn.

23           (Don Hall is duly sworn.)

24           BENNY WAMPLER: The record will show there are no

--

1 others. You may proceed.

2

3

DON HALL

4 having been duly sworn, was examined and testified as  
5 follows:

6

DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Hall, if you'd state your name for the  
9 Board, who you're employed by and in what capacity?

10 A. My name is Don Hall. I'm employed by  
11 Equitable Production Company as district landman.

12 Q. And do your responsibilities include the  
13 land involved here in this unit and in the surrounding area?

14 A. They do.

15 Q. And are you familiar with the application we  
16 filed seeking a location exception for well number V-535463?

17 A. Yes.

18 Q. And have all interested parties be notified  
19 as required by Section 4(B) of the Virginia Gas & Oil Board  
20 Regulations?

21 A. They have.

22 Q. Could you indicate for the Board the  
23 ownership of the oil and gas underlying the unit for well  
24 number V-535463?

--



1           A.       Pine Mountain Oil and Gas owns 83.43% of the  
2 unit and the Columbus Phipps Foundation, et al, owns 16.57%.

3           Q.       Okay, we're seeking an exception from two  
4 different wells. Does Equitable have the right to operate  
5 those reciprocal wells?

6           A.       Yes.

7           Q.       And are there any correlative rights issues?

8           A.       No.

9           Q.       Now, Mr. Hall, you did pass out an exhibit  
10 to the Board. Could you explain to the Board in conjunction  
11 with that exhibit why we are in need of this location  
12 exception?

13          A.       Okay, the subject well is highlighted in  
14 yellow. The surrounding wells that are highlighted in  
15 orange. The P-190 and P-34 are the two wells...two  
16 reciprocal wells that we're getting an exception...spacing  
17 exception from. But with the spacing of those other existing  
18 wells in the area, there is no place that we can get 2500  
19 feet from all the wells. There's no...in fact, there's no  
20 legal location that we could find in that area that was  
21 available. We could have probably made spacing a little bit  
22 shorter by moving it over toward, as you see on the  
23 typographic map there, the Ball cemetery. But the property  
24 owner which we have the well, Bob Leftwitch owns where the

--

1 well is and also over near the cemetery. We put it where we  
2 did to stay away from the cemetery and several houses in that  
3 area and there's also some pretty nice meadows there with  
4 hayfields. We knew we were going to have to get a location  
5 exception anyway. So, we just avoided those areas as well.

6 Q. In the event this location exception were  
7 not granted, would you project the estimated loss of reserves  
8 resulting in waste?

9 A. 400 million cubic feet.

10 Q. And what's the total depth of the proposed  
11 under the plan of development?

12 A. 5820 feet.

13 Q. And this will be sufficient to penetrate and  
14 test the common sources of supply in the subject formations  
15 as listed in the permit application?

16 A. Yes.

17 Q. And are you requesting that this location  
18 exception cover conventional gas reserves to include the  
19 designated formations from the source to the total depth  
20 drilled?

21 A. Yes.

22 Q. In your opinion, would the granting of this  
23 location exception be in the best interest of preventing  
24 waste, protecting correlative rights and maximizing the

--

1 recovery of gas reserves underlying the unit for V-535463?

2 A. Yes, it would.

3 JIM KISER: Nothing further of this witness at this  
4 time, Mr. Chairman.

5 BENNY WAMPLER: Would you go over those percentage  
6 of the ownership, please, again?

7 DON HALL: Pine Mountain Oil and Gas owns 83.43%.  
8 Columbus Phipps Foundation and others, which include Carol  
9 Buchanan, Gene and Louie Phipps, John Grever and Ula Benton,  
10 own 16.57%.

11 BENNY WAMPLER: Any other questions from members of  
12 the Board?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further?

15 JIM KISER: Nothing further at this time, Mr.  
16 Chairman, except that we'd ask that the application be  
17 approved as submitted.

18 BENNY WAMPLER: Is there a motion?

19 JIM McINTYRE: I move.

20 BENNY WAMPLER: I have a motion to approve. Is  
21 there a second?

22 KEN MITCHELL: Second.

23 BENNY WAMPLER: Motion and second. Any further  
24 discussion?

--

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying  
3 yes.

4 (All members signify by saying yes, except Donald  
5 Ratliff.)

6 BENNY WAMPLER: Opposed, say no.

7 DONALD RATLIFF: I abstain, Mr. Chairman.

8 BENNY WAMPLER: One abstention, Mr. Ratliff. Thank  
9 you. The next item on the agenda is a petition from  
10 Equitable Production Company for a well location exception  
11 for proposed well V-502677, docket number VGOB-03-0318-1124.  
12 We'd ask the parties that wish to address the Board in this  
13 matter to come forward at this time.

14 JIM KISER: Again, Mr. Chairman and members of the  
15 Board, Jim Kiser on behalf of Equitable Production Company.  
16 Our witness, again, will be Mr. Hall.

17 BENNY WAMPLER: The record will show there are no  
18 others. You may proceed.

19

20 DON HALL

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. KISER:

23 Q. Mr. Hall, again, state your name for the  
24 Board, who you're employed by and in what capacity?

--

1                   A.       My name is Don Hall. I'm employed by  
2 Equitable Production Company as district landman.

3                   Q.       And your responsibilities again fall in the  
4 area for this well and in the surrounding area?

5                   A.       Yes.

6                   Q.       And you did...you did review and are  
7 familiar with the application for the location exception for  
8 V-502677?

9                   A.       Yes.

10                  Q.       Have all interested parties been notified as  
11 required by Section 4(B) of the Virginia Oil and Gas Board  
12 Regulations?

13                  A.       They have.

14                  Q.       Would you indicate for the Board the  
15 ownership of the oil and gas underlying this unit?

16                  A.       Penn Virginia Oil and Gas Corporation owns  
17 100%.

18                  Q.       Okay. And we are seeking an exception  
19 from...about a 127 foot exception from one well. Does  
20 Equitable have the right to operate that reciprocal well?

21                  A.       We do.

22                  Q.       And are there any correlative rights issues?

23                  A.       No.

24                  Q.       Okay, Mr. Hall, we don't have an Exhibit

--

1 ...a plat for this particular application. Can you explain  
2 for the Board why we're seeking this location exception?

3 A. Yes. This...this location was originally  
4 staked at 2500 foot or a little greater from 10,159. Upon  
5 reviewing mining maps with Penn Virginia, it was discovered  
6 that this well would penetrate four open mines, mined out  
7 areas. After finding that out, it was determined that it  
8 wouldn't be feasible mechanically or economically to try to  
9 deal with four open mines. So, we worked with Penn Virginia  
10 with their mine maps and found a spot a 130...approximately  
11 130 feet away from which we could hit a coal box in a couple  
12 of those mines and therefore only penetrate two, which would  
13 be much more workable from an engineering standpoint and, of  
14 course, economically would make sense.

15 Q. So, this site was selected conferring with  
16 Penn Virginia's entities who in some form or another are the  
17 fee owners of this property?

18 A. That's correct.

19 Q. And in the event this location exception  
20 were not granted, would you project the estimated lost of  
21 reserves resulting in waste?

22 A. 450 million cubic feet.

23 Q. And the total depth of this well under the  
24 applicant's plan of development?

--

1                   A.       6,089 feet.

2                   Q.       And this will be sufficient to penetrate and  
3 test the common sources of supply and the subject formations  
4 as listed in the permit application?

5                   A.       Yes.

6                   Q.       And are you requesting that this location  
7 exception cover conventional gas reserves to include  
8 designated formations from the surface to the total depth  
9 drilled?

10                  A.       We are.

11                  Q.       And in your professional opinion, would the  
12 granting of this location exception application be in the  
13 best interest of preventing waste, protecting correlative  
14 rights, and maximizing the recovery of the gas reserves  
15 underlying the unit for V-502677?

16                  A.       Yes.

17                  JIM KISER: Nothing further of this witness at this  
18 time, Mr. Chairman.

19                  BENNY WAMPLER: Questions from members of the  
20 Board?

21                  BOB WILSON: Mr. Chairman.

22                  BENNY WAMPLER: Mr. Wilson.

23                  BOB WILSON: I'd like to point out for the record  
24 that the well identified as 10,159, that's not a valid well

--

1 number as far as our files are concerned. The actual well  
2 number VAP-13675 just for the record.

3 BENNY WAMPLER: Thank you.

4 DON HALL: That was the well number that when  
5 acquired ANR, that they used. We've...when we transferred  
6 it, we assigned those numbers. I apologize for not having  
7 the correct number on it.

8 BENNY WAMPLER: Other questions?

9 (No audible response.)

10 BENNY WAMPLER: Is there a motion?

11 DONALD RATLIFF: I move that we adopt.

12 BILL HARRIS: Second.

13 BENNY WAMPLER: Motion is second. Any further  
14 discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying  
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. The next item  
22 on the agenda is a petition from Equitable Production Company  
23 for a well location exception for proposed well V-535699,  
24 docket number VGOB-03-0318-1125. We'd ask the parties that

--



1 wish to address the Board in this matter to come forward at  
2 this time.

3           DON HALL: I've got some exhibits if I can find  
4 them.

5           JIM KISER: Mr. Chairman and members of the Board,  
6 Jim Kiser, again, on behalf of Equitable Production Company.  
7 Mr. Hall would be our witness. He's going to hand out some  
8 exhibits for us.

9           (Don Hall hands out exhibits.)

10          BILL HARRIS: Mr. Chairman, while he's doing that,  
11 let me ask a question about the surveying. I'm not sure  
12 anyone here can answer this. I notice a lot of these  
13 elevations are being determined by GPS surveys now. Is this  
14 ...is there some, I guess, rule that established this as  
15 being legal to do now? I mean, is this an accepted practice,  
16 I guess, is what I'm asking?

17          BENNY WAMPLER: To use GPS?

18          BILL HARRIS: Yes.

19          BENNY WAMPLER: Yes. It is an accepted practice.

20          BILL HARRIS: Okay. Because I see that a lot and I  
21 just wondered.

22          BENNY WAMPLER: Right.

23          BILL HARRIS: I know it was convenient. But I  
24 didn't know if it was just a convenient...okay, thank you.

--

1                   BENNY WAMPLER: The record will show there are no  
2 others. You may proceed.

3

4

5

DON HALL

6

DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8                   Q.       Mr. Hall, you're employed by Equitable  
9 Production Company as a district landman?

10                  A.       That's correct.

11                  Q.       And do your responsibilities include the  
12 land involved here and in the surrounding area?

13                  A.       They do.

14                  Q.       And you're familiar with the application we  
15 filed seeking a location exception for well V-535699?

16                  A.       Yes.

17                  Q.       And have all interested parties been  
18 notified as required by Section 4(B) of the Virginia Gas &  
19 Oil Board regulations?

20                  A.       Yes.

21                  Q.       Could you indicate for the Board the  
22 ownership of the oil and gas underlying this unit?

23                  A.       Penn Virginia Oil and Gas Corporation is a  
24 100% owner in this unit.

--

1                   Q.       All right. We are seeking an exception from  
2 two different wells. Those being 186 and V-502674. Does  
3 Equitable have the right to operate those reciprocal wells?

4                   A.       We do.

5                   Q.       And are there any correlative rights issues?

6                   A.       No.

7                   Q.       Now, Mr. Hall, you've passed out an exhibit  
8 to the Board in conjunction with this hearing. Would you...  
9 in conjunction with that exhibit, would you explain why we're  
10 seeking this exception?

11                  A.       Again, as you can see on the exhibit, I've  
12 highlighted the 535699 in yellow and the two reciprocal wells  
13 are highlighted in orange. To the east of 5699, you'll see  
14 blue shaded area, that represents the area in which...the  
15 closer area in which we could put a legal location from these  
16 wells. Those arcs are indicators of a 2500 foot distance  
17 from each well. That's where we could have putting...we  
18 could have put the location to the east of that blue line.  
19 But as you see, that ridge line that lays up through there,  
20 Penn Virginia has a proposed mining operations there.  
21 They're going to strip mine that area and they...in the  
22 process of approving our wells, they did not want us on that  
23 ridge top. The location where it is now was chosen by them.

24                  Q.       And in the event this location exception

--

1 were not granted, would you project the estimated lost of  
2 reserves resulting waste here?

3 A. 400 million cubic feet.

4 Q. And the total depth of proposed well under  
5 the plan of development?

6 A. 5254 feet.

7 Q. Will this be sufficient to penetrate and  
8 test any common sources of supply in the subject formations  
9 as listed in the permit application?

10 A. Yes.

11 Q. And are we requesting that this location  
12 cover conventional gas reserves to include the designated  
13 formations from the surface to the total depth drilled?

14 A. Yes.

15 Q. In your professional opinion, would the  
16 granting of this location exception be in the best interest  
17 of preventing waste, protecting correlative rights and  
18 maximizing the recovery of the gas reserves underlying the  
19 unit for V-535699?

20 A. Yes.

21 JIM KISER: Nothing further of this witness at this  
22 time, Mr. Chairman.

23 BENNY WAMPLER: Questions from members of the  
24 Board?

--

1           BOB WILSON: Mr. Chairman, again, the reciprocal  
2 well identified as 10,086 is not a valid number. That well  
3 number is VAP-133616.

4           DON HALL: And, again, I apologize for not having  
5 the correct well number.

6           JIM KISER: But that is a well---.

7           BENNY WAMPLER: And I assume if you go on the other  
8 side of the Callahan, that you have other wells that you  
9 would---.

10          DON HALL: Pardon?

11          BENNY WAMPLER: If you move that well over this  
12 way---?

13          DON HALL: To the west?

14          BENNY WAMPLER: To the west.

15          DON HALL: Yes. We have other wells over there  
16 that it would infringe on as well.

17          BENNY WAMPLER: Other questions from members of the  
18 Board?

19                (No audible response.)

20          BENNY WAMPLER: Do you have anything further?

21          JIM KISER: Mr. Chairman, we'd ask that the  
22 application be approved as submitted.

23          BENNY WAMPLER: Is there a motion?

24          DONALD RATLIFF: I move that we approve.

--

1           BENNY WAMPLER: Motion to approve. Is there a  
2 second?

3           JIM KISER: Second.

4           BENNY WAMPLER: Motion and second. Any further  
5 discussion?

6           (No audible response.)

7           BENNY WAMPLER: All in favor, signify by saying  
8 yes.

9           (All members signify by saying yes.)

10          BENNY WAMPLER: Opposed, say no.

11          (No audible response.)

12          BENNY WAMPLER: You have approval.

13          DON HALL: Thank you.

14          BENNY WAMPLER: Are you doing Columbia next? It's  
15 up to you. Have you all worked that out to go to that one?

16          JIM KISER: Yeah. Are you okay?

17          MARK SWARTZ: Well, you know...

18          BENNY WAMPLER: We'll go to number eighteen on the  
19 Board's agenda. A petition from Columbia Natural Resources,  
20 Inc. for a well location exception for proposed well 825092,  
21 docket number VGOB-03-0318-1135. We'd ask the parties that  
22 wish to address the Board in this matter to come forward at  
23 this time.

24          MASON BRENT: Mr. Chairman, I'd like to recuse

--

1 myself from this matter.

2 BENNY WAMPLER: Okay, Mr. Brent is recused.

3 (Jim Kiser hands out exhibits.)

4 JIM KISER: Mr. Chairman and members of the Board,  
5 Jim Kiser on behalf of Columbia Natural Resources. Our  
6 witness in this matter will be Mr. Todd Tetrick. We'd ask  
7 that he be sworn at this time.

8 (Todd Tetrick is duly sworn.)

9 BENNY WAMPLER: The record will show there are no  
10 others. You may proceed.

11

12 TODD TETRICK

13 having been duly sworn, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KISER:

17 Q. Mr. Tetrick, if you'd state your name for  
18 the Board, who you're employed by and in what capacity?

19 A. My name is Todd Tetrick. I'm a drilling  
20 engineer with Columbia Natural Resources.

21 Q. And you have previously testified before the  
22 Board and your qualifications as an expert witness in the  
23 area of production and operations have been accepted by the  
24 Board?

--

1           A.       Yes, sir.

2           Q.       And do your responsibilities include the  
3 land involved here and in the surrounding area?

4           A.       Yes.

5           Q.       Now, are you familiar with and did you  
6 review the application that we filed seeking a location  
7 exception for well number 825092?

8           A.       Yes.

9           Q.       And have all interested parties been  
10 notified as required by Section 4(B) of the Virginia Gas and  
11 Oil Board regulations?

12          A.       Yes, they have.

13          Q.       Would you indicate for the Board the  
14 ownership of the oil and gas underlying the unit for well  
15 number 825092?

16          A.       Buchanan Energy Company owns 100% of the oil  
17 and gas underlying the proposed well.

18          Q.       All right. Now, we're seeking an exception  
19 from CNR well number 24918, is that correct?

20          A.       Yes.

21          Q.       Does Equitable...does CNR have the right to  
22 operate that well?

23          A.       Yes, we do.

24          Q.       And are there any correlative rights issues?

--



1                   A.       No, there are not.

2                   Q.       Now, Mr. Tetrick, you have, in conjunction  
3 with the hearing here today, you have prepared the  
4 topographic exhibit and two sets of pictures. Would you  
5 explain for the Board, in your own words, in conjunction with  
6 those exhibits, why we're seeking this location exception?

7                   A.       If you look on the well location map, we're  
8 getting extremely close to the Tug Fork river. The terrain  
9 is getting extremely steep to say the least. The well  
10 location, if you look on the picture, you can see the stake  
11 that is in orange ribbon. That well location itself is an  
12 extremely difficult well location. The second picture, you  
13 can see the creek, or Greenbriar Creek, below us. We cannot  
14 physically access the mouth of the hollow. You can see a  
15 jeep trail on the well location map. It runs right down  
16 through the creek. We just...we cannot physically drill the  
17 well any closer to the mouth of the hollow to maintain 2500  
18 foot spacing. And to come in from the West Virginia side, we  
19 would have to cross the Tug Fork River. Essentially...that's  
20 the best location we could come up with due to the terrain.

21                  Q.       And the royalty owner in the unit for the  
22 existing well that we're seeking the exception from 24918 is  
23 Buchanan Energy Company?

24                  A.       Yes, they are.

--

1 Q. Okay, now were this location exception not  
2 granted, would you project the estimated lost of reserves  
3 resulting in waste?

4 A. 250 million cubic feet.

5 Q. And the total depth of the proposed well  
6 under the plan of development?

7 A. 4,796 feet. That's includes formations  
8 consistent with a permit that is pending with the Division of  
9 Gas & Oil.

10 Q. And are you requesting that this location  
11 exception cover conventional gas reserves to include those  
12 designated formations from the surface to the total depth  
13 drilled?

14 A. Yes.

15 Q. And in your professional opinion, would the  
16 granting of this location exception application be in the  
17 best interest of preventing waste, protecting correlative  
18 rights and maximizing the recovery of gas reserves underlying  
19 the unit for 825092?

20 A. Yes, it would.

21 JIM KISER: Nothing further of this witness at this  
22 time, Mr. Chairman.

23 BENNY WAMPLER: Questions from members of the  
24 Board?

--

1           JIM MCINTYRE: I have a question.

2           BENNY WAMPLER: Yes, sir.

3           JIM KISER: I missed the reason why you said you  
4 couldn't drill that hole closer to the Tug Fork river and  
5 move it east towards the mouth of that hollow.

6           TODD TETRICK: The biggest...if you look at  
7 the...you can see a jeep trail on the topographic map.  
8 Itself lies in a creek bed. The creek bed is a rock cliff  
9 all the way down to the mouth of the hollow. And we  
10 just...as you get close to the Tug Fork, the terrain and  
11 contours, a lot of it is just nothing but rock cliff. It's  
12 just getting extremely difficult and uneconomical to...I  
13 don't think we could drill the well if we pushed it any  
14 further down the hollow.

15           BENNY WAMPLER: Other questions?

16           (No audible response.)

17           BENNY WAMPLER: Do you have anything further?

18           JIM KISER: Mr. Chairman, we'd ask that the  
19 application be approved as submitted.

20           DONALD RATLIFF: Move that we approve.

21           BENNY WAMPLER: I have a motion to approve. Is  
22 there a second?

23           JIM MCINTYRE: Second.

24           BENNY WAMPLER: Second. Any further discussion?

--

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying  
3 yes.

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thank you.

8 TODD TETRICK: Thank you.

9 BOB WILSON: Mr. Chairman, before Mr. Kiser gets  
10 away here, we had an item that was supposed to be carried  
11 forward from January to March and I didn't get it on the  
12 docket, which turns out to be a mixed blessing. Apparently,  
13 they weren't ready for it anyway. This is having to do with  
14 Equitable well V-505369. So, that will be carried forward to  
15 April.

16 JIM KISER: Yes. In fact, in addition to the one  
17 ...the force pooling that we continued today, it was a  
18 blessing in disguise that that didn't get on this docket  
19 because, again, due to some additional title work that needed  
20 to be performed, we identified some additional owners who had  
21 not been notified in the original application process. What  
22 we did this past Friday, which was the deadline for the April  
23 docket, was file an amended application which notified  
24 everyone who will be involved in that particular hearing.

--

1 So, we'll be good to go on both of those along, I think, with  
2 a couple new ones in April. What we did too, I know Sharon  
3 is going to like this, even though those applications were  
4 originally filed under the old exhibit system, we filed the  
5 amended ones under the new exhibit system.

6 BENNY WAMPLER: Thank you. We appreciate that.  
7 Thank you very much.

8 BOB WILSON: The Board members will need to hang  
9 onto their material from docket number 1101. If you don't  
10 have it, let us know. We'll make copies for it.

11 JIM MCINTYRE: I need it.

12 JIM KISER: If you need any help---.

13 BENNY WAMPLER: It probably would be better to  
14 include it.

15 BOB WILSON: We'll...actually, we'll have amended  
16 copies to send out anyway.

17 JIM KISER: Yeah.

18 BOB WILSON: We'll have to send it out anyway. So,  
19 all is well.

20 BENNY WAMPLER: Okay.

21 JIM KISER: Okay.

22 BENNY WAMPLER: The next item on the agenda is a  
23 petition from Pocahontas Gas Partnership for pooling of a  
24 coalbed methane unit AX-102, docket number VGOB-03-0318-1127.

--

1 We'd ask the parties that wish to address the Board in this  
2 matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington. If I  
4 could, I would ask leave of the Board to combine---.

5 BENNY WAMPLER: 102 and 103?

6 MARK SWARTZ: Yes, please.

7 BENNY WAMPLER: We'll also go ahead and call a  
8 petition of Pocahontas Gas Partnership for pooling of a  
9 coalbed methane unit AX-103, docket number VGOB-03-0318-  
10 1126...28, I'm sorry. We'd ask the parties that wish to  
11 address the Board in these two matters to come forward at  
12 this time.

13 MARK SWARTZ: It would also be Mark Swartz and Les  
14 Arrington.

15 BENNY WAMPLER: The record will show there are no  
16 others. You may proceed.

17 (Leslie K. Arrington passes out exhibits.)

18

19 LESLIE K. ARRINGTON

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Les, you need to state your name for the  
23 record.

24 A. Leslie K. Arrington.

--

1 Q. Who do you work for?  
2 A. CNX Gas Company.  
3 Q. Okay. And what do you do for them?  
4 A. Gas Engineer.  
5 Q. Did you participate in the preparation of  
6 these two applications and the related exhibits?  
7 A. Yes, I have.  
8 Q. And did you sign the notices of hearing and  
9 the applications yourself?  
10 A. Yes, I did.  
11 Q. Both of these applications seek to pool Nora  
12 Field units, correct?  
13 A. That's correct.  
14 Q. Okay, who is the applicant?  
15 A. Pocahontas Gas.  
16 Q. And is Pocahontas Gas Partnership a Virginia  
17 General Partnership?  
18 A. Yes, it is.  
19 Q. And are its two partners Consol Energy, Inc.  
20 and Consolidation Coal Company?  
21 A. Yes, it is.  
22 Q. And who are...who do these two applications  
23 request be appointed the Board's designated operator?  
24 A. Pocahontas Gas Partnership.

--

1 Q. Okay. So, in terms of the applications  
2 showing Consol Energy, Inc. but you're actually requesting  
3 today---?

4 A. Yes.

5 Q. ---Pocahontas Gas Partnership be the  
6 operator?

7 A. Yes, we are.

8 Q. Okay. Does Pocahontas Gas Partnership, or  
9 has Pocahontas Gas Partnership sought authorization to do  
10 business in the Commonwealth?

11 A. Yes, it has.

12 Q. And has it filed a blanket bond with the  
13 Department of Mines, Minerals and Energy with regard to  
14 plugging and reclamation obligations?

15 A. Yes, it has.

16 Q. With regard to these two units, let's look  
17 at AX-102 first, I notice that there are some amended or  
18 revised exhibits. Do you see that?

19 A. Yes, it is.

20 Q. Okay. And with regard to the other unit  
21 there are no other revised exhibits?

22 A. That's correct.

23 Q. And if you just...would turn with me for a  
24 moment to Exhibit B-2.

--



1                   A.       Yes.

2                   Q.       I assume that we have that because we're  
3 adding or subtracting some people.

4                   A.       Yes. We're subtracting two parties that we  
5 have since leased.

6                   Q.       Okay. So, if the Board members would look  
7 at the revised Exhibit B-2, which is in the exhibits that you  
8 passed out today, it shows the two folks and it shows the  
9 reason for dismissal is because you've obtained a lease since  
10 filing this today?

11                  A.       Yes, we have.

12                  Q.       Okay. Would then the explanation for the  
13 revision to B-3 be that these two people that you have  
14 obtained leases from have been removed from Exhibit B-3?

15                  A.       Correct.

16                  Q.       And with regard to Exhibits E and EE, do you  
17 recall or do you need to look at those to know what the  
18 difference there would be?

19                  A.       It's probably to indicate the lease...the  
20 differences. We probably have some...let me get back to it.

21

22                         (Leslie K. Arrington reviews the exhibit.)

23                  A.       Those leased parties signed royalty split  
24 agreements.

--

1 Q. Okay. So, that's the explanation for that?

2 A. Yes, it is.

3 Q. Okay. So, then Exhibit E and EE would

4 reflect that these folks could be paid directly because they

5 signed off on royalty split agreements?

6 A. That's correct. Uh-huh.

7 Q. Okay. What did you...have you listed...

8 with the exception of the discussion that we've just had with

9 these two people that we need to dismiss as respondents from

10 Exhibit Ax-102, with regard to either of these units, do you

11 need to add any additional folks as respondents today or do

12 you need to dismiss any additional people?

13 A. No.

14 Q. Okay. With the exception of these two folks

15 that you've leased between filing and today, are the people

16 that are...that you're seeking to pool listed in both the

17 notices of hearing and the Exhibits B-3?

18 A. Yes, they are.

19 Q. And what did you do to notify these folks?

20 A. We mailed it by certified mail/return

21 receipt requested on February the 14th, 2003.

22 Q. Was that true for both applications?

23 A. For both applications.

24 Q. Okay.

--

1           A.       And we published AX-102 in the Bluefield  
2 Daily Telegraph on February the 28th, 2003.

3           Q.       And how about publication for AX-103?

4           A.       It also was published in the Bluefield Daily  
5 Telegraph on the 28th of February, 2003.

6           Q.       And have you filed today with the Board in  
7 the packet of exhibits that we've been referring to proofs of  
8 publication and your documentation with regard to mailing?

9           A.       Yes, we have.

10          Q.       These...let's stay with AX-102 again. If we  
11 turn to the plat map, it shows that we're dealing with a  
12 58.77 acre unit.

13          A.       Yes, in the Nora Field.

14          Q.       In the Nora Field. It shows that you're  
15 proposing to drill one frac well, is it?

16          A.       That's correct.

17          Q.       And is that in or outside the window?

18          A.       It's inside.

19          Q.       So, that we're not going to be dealing with  
20 any kind of location plat---.

21          A.       Correct.

22          Q.       ---or exception here. The...if you could  
23 summarize for the Board or tell the Board what interest the  
24 operator has...the applicant has acquired to date and what

--

1 interest it needs to pool today.

2 A. Yes. From the revised Exhibit A, page two  
3 ...I just checked to make sure I had the right number. We  
4 have 100% of the coal owners' coalbed methane interest leased  
5 and 100% of the coal leased. We have 60.9527% of the oil and  
6 gas owner's coalbed methane interest leased. We're seeking  
7 to pool 39.0473% of the oil and gas owner's coalbed methane  
8 interest.

9 Q. Okay. The well that we're talking about  
10 here, it appears that you already have a permit.

11 A. I'll have to look at that. I did not write  
12 that down.

13 (Leslie K. Arrington reviews the exhibit.)

14 A. Yes. The permit number for well AX-102 is  
15 5567 to be drilled to a total depth of 2,287 feet at an  
16 approximate cost of \$230,549.76.

17 Q. Obviously, you have leased the majority...  
18 well, all of the coal owner claimants and the majority of the  
19 oil and gas claimants. What terms have you in general used  
20 in leasing that acreage and what terms would you recommend to  
21 the Board to be included in any order it might enter.

22 A. Yes, it a \$1 per acre per year for a coalbed  
23 methane lease with a five year paid up term with a one-eighth  
24 production payment.

--

1                   Q.       As I look at...staying again with AX-102, if  
2 we look at the revised Exhibit E, that would indicate that  
3 there is escrow required here for conflicting claimants,  
4 correct?

5                   A.       It does. It would also...there is also an  
6 unknown in Tract 2B. Conflicting owners in Tract 2A, 2B and  
7 2C and royalty split for some of the owners in Tract 2B,  
8 which would be shown on EE.

9                   Q.       If we stay with Exhibit E, that indicates a  
10 requirement of escrow because of conflicts in Tracts 2A, 2B  
11 and 2C, correct?

12                  A.       It does.

13                  Q.       And then we have people that are either  
14 unknown or unlocateable, I believe, in Tracts 2B and 2C.

15                  A.       2B for sure. I didn't catch the 2C.

16                       (Leslie K. Arrington reviews the exhibit.)

17                  A.       Okay. Yeah.

18                  Q.       Okay. So, that would be an additional  
19 reason to escrow with regard to those two tracts because of  
20 those unknown or unlocateable folks?

21                  A.       Uh-huh.

22                  Q.       Then you have attached in the revised  
23 exhibits today an updated list of the folks who have entered  
24 into royalty split agreements, correct?

--

1           A.       That's correct.

2           Q.       And would your request to the Board be that  
3 its order allow you to pay the people who have entered into  
4 split agreements directly rather than escrowing their funds  
5 in accordance with the terms of their split agreements?

6           A.       Yes, we would.

7           Q.       Now, with regard to AX-103, we've previously  
8 indicated there are no revised exhibits for this unit.

9           A.       Correct.

10          Q.       So, we're dealing with what you filed?

11          A.       That's correct.

12          Q.       Okay. If you would turn to Exhibit...to the  
13 plat, let's start with that. This is a 58.77 acre Nora unit,  
14 correct?

15          A.       Yes.

16          Q.       And it has one well?

17          A.       Yes.

18          Q.       And it's in the drilling window?

19          A.       Yes, it is.

20          Q.       Okay. And this...if we look at the tract  
21 identifications, and we'll get to this when we're talking  
22 about escrow, but this appears to have a title issue or a  
23 cloud on title. That there are actually claimants who have  
24 conflicting title claims to the same interest.

1           A.       It does.

2           Q.       Okay.  And that would be in Tract 2?

3           A.       Yes.

4           Q.       So, independent of any other reason to

5 escrow, until the title argument between these folks that

6 you've identified in your tract identifications is resolved

7 ...there is a title...there is a basis with regard to

8 questions concerning title to escrow with regard to Tract 2?

9           A.       It is.

10          Q.       Okay.  If we continue through the

11 application with regard to AX-103 and get...find our way to

12 Exhibit A, page two, could you summarize for the Board where

13 you stand in terms of leasing or acquiring interest in terms

14 of what you've acquired and what we're seeking to pool?

15          A.       Yes, we have 100% of the coal owner's

16 coalbed methane interest leased, a 100% of the coal leased,

17 99.983% of the oil and gas owners interest for the coalbed

18 methane leased.  We're seeking to pool 0.017% of the oil and

19 gas interest.

20          Q.       It does not appear that you have a permit

21 yet for this well?

22          A.       We do not.

23          Q.       Okay.  And what's the proposed depth?

24          A.       Proposed depth 2,298 feet with an estimated

--

1 cost of \$231,118.83.

2 Q. Now, there is a conflict requirement that  
3 ...for escrow with regard to Tract 2 as well---?

4 A. Yes.

5 Q. ---independent of a title argument?

6 A. That's correct.

7 Q. And that's shown on Exhibit E?

8 A. Yes, it is.

9 Q. And it looks like there are no royalty split  
10 agreements?

11 A. Correct.

12 Q. Is it your opinion, Les, that the  
13 development plans that are disclosed for these two Nora units  
14 by your application and related exhibits that disclose a  
15 reasonable method, namely one well in the drilling windows to  
16 develop the coalbed methane from these two units?

17 A. Yes, it is.

18 Q. Okay. And would the...would the development  
19 or production from these two wells, one in each unit, benefit  
20 all of the persons having interest in these units and protect  
21 correlative rights?

22 A. Yes, it will.

23 MARK SWARTZ: That's all I have.

24 BENNY WAMPLER: Questions from members of the

--



1 Board?

2 KEN MITCHELL: Just a clarification, Mr. Chairman.

3 BENNY WAMPLER: Mr. Mitchell.

4 KEN MITCHELL: When I looked at unit AX-102 under

5 Exhibit A on the right hand side where the well is actually

6 located, it appears the well is in the middle of the road.

7 Is that a...it that a...I presume that's a road, the double

8 line...double line that goes from the top to the bottom

9 right?

10 LESLIE K. ARRINGTON: It's just an old strip bench

11 and that's the access road going out through the old strip

12 bench.

13 KEN MITCHELL: I was just surprised they put in the

14 middle of the road.

15 LESLIE K. ARRINGTON: Right. If we did, we chose

16 the best location on that old strip bench, which was the old

17 access road that goes around the strip bench.

18 KEN MITCHELL: Okay.

19 LESLIE K. ARRINGTON: Yeah. And it will get

20 substantially wider where we're there.

21 KEN MITCHELL: Okay.

22 JIM MCINTYRE: I have a question.

23 BENNY WAMPLER: Yes, sir.

24 JIM MCINTYRE: On AX-102, you're showing a 40% of

--

1 the gas interest that you're seek pooling for that. That's  
2 in regards to these ten pages of conflict of title?

3           MARK SWARTZ: Actually, the 40%...we often lease  
4 people who are in conflict. So, we will take two leases.  
5 We'll lease the oil and gas owner for one tract and then if  
6 it's severed, we'll also lease the coal owner. So, if  
7 there's...let's say there's a three acre tract, we might  
8 actually have two leases, one from the coal owners and one  
9 from the oil and gas owners. So, the fact that people are in  
10 conflict doesn't...you know, is not a reason affecting the  
11 percentage here. The reason that we have 40% outstanding is  
12 if you look at Exhibit B-3...now, if we're going to be  
13 talking about 102, we probably need to look at the amended B-  
14 3. But Exhibit B-3 amended will tell you exactly we have the  
15 40% of the oil and gas outstanding. In Tract 2A, there is  
16 less than half a percent of the unit that we haven't leased.  
17 It's .44. In Tract 2B, which is 52% of the unit, although  
18 we have leased some of those people, there are a great number  
19 of them that we have not. So, my guess is we've probably  
20 leased ...you know, just ball parking it, maybe 75% of the  
21 people in that unit and have not...have leased maybe 25% of  
22 the people in that unit and has not leased 75%. So,  
23 that's...that's the explanation. We're having trouble  
24 leasing the William Coxton heirs.

--

1           JIM MCINTYRE: Thank you.

2           BENNY WAMPLER: Other questions from members of the  
3 Board?

4           (No audible response.)

5           BENNY WAMPLER: Do you have anything further?

6           MARK SWARTZ: No.

7           BENNY WAMPLER: Is there a motion?

8           KEN MITCHELL: Motion to approve.

9           DONALD RATLIFF: I second.

10          BENNY WAMPLER: Motion to approve and second. Any  
11 further discussion?

12          (No audible response.)

13          BENNY WAMPLER: All in favor, signify by saying  
14 yes.

15          (All members signify by saying yes.)

16          BENNY WAMPLER: Opposed, say no.

17          (No audible response.)

18          BENNY WAMPLER: You have approval.

19          The next item on the agenda is a petition from  
20 Pocahontas Gas Partnership for pooling of a coalbed methane  
21 unit EE-31, docket number VGOB-03-0318-1129.

22          MARK SWARTZ: Mark Swartz and Les Arrington, again.  
23 Mr. Chairman, I would ask the Board to consider combining  
24 thirteen, fourteen and fifteen with the docket item twelve

--

1 that you just called.

2 (Anita Tester passes out exhibits.)

3 BENNY WAMPLER: All right. We'll also call a  
4 petition from Pocahontas Gas Partnership for pooling of a  
5 coalbed methane unit EE-32, docket number VGOB-03-0318-1130;  
6 unit FF-31, docket number VGOB-03-0318-1131; and unit FF-32,  
7 docket number VGOB-03-0318-1132. We'd ask the parties that  
8 wish to address the Board in these matters to come forward at  
9 this time.

10 MARK SWARTZ: Mark Swartz and Les Arrington again.

11 BENNY WAMPLER: The record will show there are no  
12 others. You may proceed.

13

14 LESLIE K. ARRINGTON

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Les, could you state your name for us again,  
18 please?

19 A. Leslie K. Arrington.

20 Q. Who is the applicant in each of these four  
21 pooling applications?

22 A. Pocahontas Gas Partnership.

23 Q. And is Pocahontas Gas Partnership a Virginia  
24 General Partnership?

--

1           A.       Yes, it is.

2           Q.       Does it have two partners?

3           A.       Yes, it does.

4           Q.       And are those two partners Consol Energy,

5 Inc. and Consolidation Coal Company?

6           A.       Yes.

7           Q.       Who is it that the applicant is requesting

8 be designated the Board's operator in the event these

9 applications are approved?

10          A.       Pocahontas Gas Partnership

11          Q.       Okay. Is Pocahontas Gas Partnership

12 authorized to do business in the Commonwealth?

13          A.       Yes, it is.

14          Q.       Has it filed a blanket bond with the

15 Department of Mines, Minerals and Energy with regard to

16 reclamation and plugging obligations?

17          A.       Yes, it has.

18          Q.       I notice as I go through the additional

19 exhibits that Anita is distributing today that the only one

20 of these four applications that have revised exhibits as of

21 today is FF-31?

22          A.       That's correct.

23          Q.       So, when we get to FF-31, we'll be dealing

24 with some revised exhibits, correct?

--

1           A.       That's correct.

2           Q.       Are all four of these units Oakwood I units?

3           A.       Yes, they are.

4           Q.       Okay. If we go through the acreage, the EE-

5 31 unit is actually an 80 acre unit?

6           A.       Yes, it is.

7           Q.       The EE-32 unit is an 80 acre unit?

8           A.       Yes.

9           Q.       And the other two units are at the boundary

10 and they're 89.72 acres each even though they are Oakwood

11 units?

12          A.       I believe FF-31 is 89.72.

13          Q.       Oh, it's 89.52 is the last one.

14          A.       And the other one is 89.52.

15          Q.       Okay. And is the applicant proposing one

16 well in each of these four Oakwood units?

17          A.       Yes, we are.

18          Q.       Okay. And in all instance...three out of

19 four instances, the well is in the drilling window, correct?

20          A.       Yes, that's correct.

21          Q.       Okay. And so...and the exception to that is

22 with regard to FF-31 and you've got a well outside the

23 drilling window?

24          A.       We do.

--

1                   Q.       And are you addressing that location issue  
2 with Mr. Wilson?

3                   A.       Yes, we are.

4                   Q.       Okay. Is the Oakwood Field Rules, as I  
5 recall, kind of put the location exception to the Director  
6 ...or the...I can never remember his title, but the guy who  
7 heads up the DGO?

8                   A.       That's correct.

9                   Q.       Okay.

10                  A.       And have you the discussed the issue with  
11 him.

12                  Q.       Okay. All right. And so because these  
13 would be Oakwood I frac wells basically, you're looking to  
14 produce coalbed methane gas from the Tiller on down to the  
15 red and green shells?

16                  A.       That's correct.

17                  Q.       The...what did you do to notify the people  
18 that you're seeking to pool of the hearings today?

19                  A.       We mailed each one of them on February the  
20 14th, 2003 by certified mail/return receipt requested. EE-31  
21 was published in the Bluefield Daily Telegraph on February  
22 the 28th of 2003; EE-32 was also on February the 28th; FF-31  
23 was February the 28th of 2003; and FF-32 was March the 1st of  
24 2003.

--

1 Q. And have you filed with the Board today  
2 documentation with regard to mailing on all four of these  
3 units?

4 A. Yes, I have.

5 Q. And have you also filed the newspaper  
6 certificates?

7 A. Yes, we have.

8 Q. Okay. When you publish in the newspaper,  
9 what is it that gets published?

10 A. The notice of hearing and exhibit showing  
11 the location of the well, Exhibit A-1.

12 Q. Okay. And when you mail to people certified  
13 mail, what do you send them?

14 A. We mail the notice of hearing and the  
15 application---.

16 Q. With the exhibits?

17 A. ---with the exhibits.

18 Q. Okay, so they get basically everything that  
19 we file with the Board?

20 A. That's correct.

21 Q. Have you identified the people that you're  
22 seeking to pool or the respondents in both the notice of  
23 hearing and in Exhibit B-3?

24 A. Yes, we have.



1                   Q.       And the one exception to that, and we'll get  
2 to it eventually, is on FF-31 we've got some changes to make?  
3                   A.       Correct.  
4                   Q.       Do you want to add anybody as a respondent  
5 in any of these four applications today?  
6                   A.       No, we do not.  
7                   Q.       But we're going to be talking about  
8 dismissing some folks in FF-31?  
9                   A.       Correct.  
10                  Q.       Is that the only unit, FF-31, that we're  
11 going to be dismissing people?  
12                  A.       Yes.  
13                  Q.       Okay. What terms or lease...what lease  
14 terms would you recommend to the Board for their use in any  
15 orders they might issue concerning folks that are deemed to  
16 have been leased?  
17                  A.       Yes. Coalbed methane lease is a \$1 per acre  
18 per year, a five year paid up term with a one-eighth  
19 production payment.  
20                  Q.       Let's start with EE-31, okay.  
21                  A.       Uh-huh.  
22                  Q.       This unit...would you summarize the success  
23 of your leasing efforts and the ownership efforts here?  
24                  A.       Yes. We have 100% of the coal leased

--

1   beneath this unit. We have a 100% of the coal owner's claim  
2   to coalbed methane leased. We have 19.7625% of the oil and  
3   gas owner's claim to coalbed methane. We're seeking to pool  
4   80.2375% of the oil and gas owner's claim to coalbed methane.

5                   Q.       If you turn to Exhibit C---?

6                   A.       Yes.

7                   Q.       ---it looks to me like you don't have a  
8   permit number yet, is that correct?

9                   A.       That's correct. It has been submitted.

10                  Q.       What's the proposed depth of this well?

11                  A.       Proposed depth is 2,634 feet at an estimated  
12   cost of \$264,066.14.

13                  Q.       It appears to me that everyone who is in  
14   conflict has entered into a split agreement, is that---?

15                  A.       That's correct.

16                  Q.       ---is that correct?

17                  A.       That is correct.

18                  Q.       So, we have some conflicting ownership  
19   issues but we don't have an escrow requirement. There's no  
20   Exhibit E---?

21                  A.       E.

22                  Q.       ---E?

23                  A.       That's correct. No.

24                  Q.       And the reason for that is disclosed by

--

1 Exhibit EE, which details the split agreements?

2 A. Yes.

3 Q. And it also, I think, would be of interest  
4 to see...to understand that some of the folks that you're  
5 pooling, although they won't lease, have entered into split  
6 agreements.

7 A. That's correct.

8 Q. Okay. And just for example, the Horton  
9 folks---.

10 A. Yes.

11 Q. ---have a pretty big chunk here and we've  
12 been unable to lease from them. But they have been able to  
13 resolve their conflicting claims and are parties to split  
14 agreements.

15 A. And I might add on that, we did acquire the  
16 actual well location from them.

17 Q. Okay.

18 A. So, the well is on their property. We did  
19 work out a royalty split with them and the coal owner. They  
20 would not lease their interest.

21 Q. But they...but they entered into a contract  
22 with you where I assume you paid them some money for a well  
23 location?

24 A. We did.

1           Q.       Okay. With regard to...that's it for EE-31.  
2   EE-32, this is the other 80 acre unit that we were talking  
3 about. This unit, would you review your standing or  
4 ownership or leasing interest in this unit?  
5           A.       Yes. EE-32, we have a 100% of the coal  
6 leased beneath this unit; a 100% of the coal owner's claim to  
7 coalbed methane leased; we have 63.7625% of the oil and gas  
8 owners claim to coalbed methane leased; and we're seeking to  
9 pool 36.2375% of this...of the oil and gas owner's claim to  
10 coalbed methane.  
11          Q.       It looks like this well has a permit.  
12          A.       Yes, it does, 5649.  
13          Q.       And the estimated depth?  
14          A.       2,551 feet to...for a cost of \$251,445.71.  
15          Q.       Now, this unit does have some escrow  
16 requirements, correct?  
17          A.       Yes, it does.  
18          Q.       And the tracts requiring escrow are listed  
19 on Exhibit E as 1A, 1B, 1C and 2A, is that correct?  
20          A.       That's correct.  
21          Q.       And then some folks have entered into...and  
22 again we see the Hortons---.  
23          A.       That's correct.  
24          Q.       ---but some folks have entered into split  
--

1 agreements. So, we have an Exhibit EE and we're asking the  
2 Board to allow the operator to pay the folks listed in  
3 Exhibit EE directly as opposed to escrowing their funds?

4 A. That's correct.

5 Q. Okay. The next in order is FF-31. That's  
6 the one where we have some revised exhibits, correct?

7 A. That's correct.

8 Q. And I gather from the identification of the  
9 exhibits and your prior testimony that you probably have  
10 leased someone, is that correct?

11 A. We did.

12 Q. And the person that you've leased is Mr.  
13 Plaster, correct?

14 A. Correct.

15 Q. And that's indicated by Exhibit B-2?

16 A. Yes, it is.

17 Q. And are you asking that he be dismissed as a  
18 respondent?

19 A. Yes, we are.

20 Q. And then can I...can we tell the Board that  
21 Exhibit B-3 has changed only insofar as Larry Plaster's name  
22 has been removed---?

23 A. That's correct.

24 Q. ---because it's no longer necessary to pool

--

1 him?

2 A. Correct.

3 Q. Now, your ownership interest, obviously,  
4 would have changed if you leased more folks. So, let's look  
5 at the revised Exhibit A, page two, which is last page of the  
6 exhibits that Anita---

7 A. Yes.

8 Q. ---passed out today. Would you summarize  
9 for the Board where you stand with regard to leasing efforts?

10 A. Yes. We have 100% of the coal leased  
11 beneath of this unit; a 100% of the coal owner's claim to  
12 coalbed methane; we have leased 29.2241% of the oil and gas  
13 owner's claim to coalbed methane; and 70.7759% of the...  
14 seeking to pool 70.7759% of the oil and gas owner's claim to  
15 coalbed methane.

16 Q. With regard to FF-31, also, if we turn to  
17 the information regarding the proposed well, which was in the  
18 original application, it looks like this well does not have a  
19 permit number yet.

20 A. No.

21 Q. Okay, what's the estimated depth?

22 A. 2,423 feet for an estimated cost of  
23 \$241,624.79.

24 Q. Now, we also have title issue in this unit,

--

1 don't we? If we look at---.

2 A. Yes.

3 (Mark Swartz reviews the exhibit.)

4 Q. So, in addition to...or having an escrow  
5 requirement because of conflicts, we've got some title  
6 problems in 1E, 1K, 1L and 1C, is that correct?

7 A. That's right. With the Commonwealth of  
8 Virginia or VDOT.

9 Q. Right. And so even if those folks entered  
10 into split agreements, they need to resolve their title  
11 dispute, that's another reason for escrowing?

12 A. Yes, it is.

13 Q. Okay, and the last of the four units then is  
14 FF-32, and this is an 89.52 acre unit, right?

15 A. Yes.

16 Q. And what is the extent to which you've been  
17 able to acquire lease interest here and the extent to which  
18 this needs to be pooled?

19 A. Yes, we have a 100% of the coal leased  
20 beneath this unit; a 100% of the coal owner's claim to  
21 coalbed methane leased; we have leased 76.1281% of the oil  
22 and gas owner's claim to coalbed methane; and 23.8719% of the  
23 oil and gas owner's claim to coalbed methane needs...we're  
24 seeking to pool.

1                   Q.       And it looks, from looking at the Exhibit C  
2 with regard to estimated costs, that this well does not have  
3 a permit number yet.

4                   A.       That's correct.

5                   Q.       What's the estimated depth?

6                   A.       2,392 feet for an estimated cost of  
7 \$245,890.80.

8                   Q.       Okay, this unit, escrow would be required  
9 and the tracts are listed in Exhibit E, correct?

10                  A.       Yes.

11                  Q.       And that...Exhibit E addresses people who  
12 have conflicting claims that require escrow and that applies  
13 in Tracts 1B, 1C, 1E, 1F, 1N, 1O, 1P, 1Q, 1R and 2B, correct?

14                  A.       Correct.

15                  Q.       And then as we look through this Exhibit E,  
16 you're also showing the tracts in which there's a title  
17 issue. For example, Tract 1P, you're showing Cross Roads or  
18 the Commonwealth.

19                  A.       That's correct.

20                  Q.       And in Tract 1R, as in Robert, you're  
21 showing Phyllis Richardson or the Commonwealth, correct?

22                  A.       Yes. And you'll notice 1N and 1Q, I  
23 believe, also. Yes, 1N and 1Q.

24                  Q.       1Q, okay. And then lastly, I believe you

--



1 have some split agreements, correct?

2 A. We do.

3 Q. And those are addressed in Exhibit EE?

4 A. Yes, it is.

5 Q. And is your request to the Board that any

6 order it might enter allow the operator to pay the folks

7 listed in EE directly rather than escrowing their funds and

8 to pay them in accordance with their agreements?

9 A. Yes.

10 Q. Lastly, with regard to these fours Oakwood I

11 frac units, my first question is, is it you opinion that this

12 is a...the plans that are disclosed by these applications and

13 the related exhibits, do they...is this a reasonable plan to

14 protect the correlative rights of the owners and lessen the

15 likelihood of physical and economic waste in these four

16 units?

17 A. Yes, it is.

18 MARK SWARTZ: That's all I have.

19 BENNY WAMPLER: Questions from members of the

20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Is there a motion?

23 DONALD RATLIFF: I move for the approval.

24 BILL HARRIS: Second.

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1           BENNY WAMPLER: Motion and second. Any further  
2 discussion?

3           (No audible response.)

4           BENNY WAMPLER: All in favor, signify saying yes.

5           (All members signify by saying yes.)

6           BENNY WAMPLER: Opposed, say no.

7           (No audible response.)

8           BENNY WAMPLER: You have approval. Thank you. The  
9 next item on the agenda is a petition from Pocahontas Gas  
10 Partnership for pooling of coalbed methane unit Z-39, docket  
11 number VGOB-03-0318-1133. We'd ask the parties that wish to  
12 address the Board in this matter to come forward at this  
13 time.

14          MARK SWARTZ: Mark Swartz. I wrote to Mr. Wilson  
15 back in...on March the 3rd indicating that we wanted to  
16 withdraw this application for our reasons stating in the  
17 letter which you all may or may not have. The reason was we  
18 had a voluntary unit and we didn't realize it. So, it  
19 doesn't need to be pooled. So---.

20          BENNY WAMPLER: It's withdrawn.

21          MARK SWARTZ: Okay.

22          BENNY WAMPLER: All right. The next item on the  
23 agenda is a petition from Buchanan Production Company for  
24 pooling of a coalbed methane unit BB-100, docket number VGOB-

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1 03-0318-1134. We'd ask the parties that wish to address the  
2 Board in this matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 BENNY WAMPLER: The record will show there are no  
5 others. You may proceed.

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1 LESLIE K. ARRINGTON

2 DIRECT EXAMINATION

3 QUESTIONS BY MR. SWARTZ:

4 Q. Les, you need to state your name for us.

5 A. Leslie K. Arrington.

6 Q. Who do you work for?

7 A. CNX Gas Company.

8 Q. Okay. Did you participate in the  
9 preparation of the application here, the notice of hearing  
10 and the related exhibits?

11 A. Yes, I did.

12 Q. And did you, in fact, sign both the notice  
13 of hearing and the application?

14 A. Yes, I did.

15 Q. Who is the applicant?

16 A. Buchanan Production Company.

17 Q. And is Buchanan Production Company a  
18 Virginia General Partnership?

19 A. Yes, it...yes.

20 Q. And are the two partners in Buchanan  
21 Production Company CNX Gas Company, L.L.C. and Consol Energy,  
22 Inc.?

23 A. Yes, it is.

24 Q. Who are you requesting in this application

--

1 be designated the Board's operator if the application is  
2 approved?

3 A. Consol Energy.

4 Q. Is Consol Energy, Inc. a Delaware  
5 Corporation?

6 A. Yes, it is.

7 Q. Is Consol Energy, Inc. authorized to do  
8 business in the Commonwealth?

9 A. Yes, it is.

10 Q. Has it filed a blanket bond with the  
11 Department of Mines, Minerals and Energy addressing  
12 reclamation and plugging obligations?

13 A. Yes, it has.

14 Q. Did Buchanan Production Company sometime in  
15 the early '90s delegate the responsibility for developing its  
16 properties in the Commonwealth and has Consol Energy, Inc.  
17 succeeded to that delegation?

18 A. Yes, it has.

19 Q. What did you do to notify the respondent  
20 here?

21 A. We mailed by certified mail/return receipt  
22 requested on February the 14th, 2003. We published in the  
23 Bluefield Daily Telegraph on March the 1st of 2003.

24 Q. And have you filed that documentation with

--

1 regard to mailing and publication with the Board today?

2 A. Yes, we have.

3 Q. Is this a Nora unit?

4 A. Yes, it is.

5 Q. Is it 58.79 acres?

6 A. Yes, it is.

7 Q. Are you proposing one frac well?

8 A. Yes.

9 Q. Is it...this frac well that you're proposing

10 or that I guess may...that you're proposing, is it located in

11 the drilling window?

12 A. Yes, it is.

13 Q. If you look at Exhibit A, page two, could

14 you tell the Board members what you have been able to lease

15 and what you haven't?

16 A. Yes. We've leased 100% of the coal beneath

17 this unit; 100% of the coal owner's claim to coalbed methane;

18 we've leased 96.7682% of the oil and gas owner's claim to

19 coalbed methane; and we're seeking to pool 3.2318% of the oil

20 and gas owner's claim to coalbed methane.

21 Q. And the only respondent here is Shirley

22 Hess, right?

23 A. Yes, it was.

24 Q. And in this instance, it looks like the well

--

1 has a permit number?

2 A. Yes, it does, 5584.

3 Q. Estimated depth?

4 A. 2,261 feet with an estimated cost of

5 \$229,997.18.

6 Q. What are the lease terms that you would

7 recommend to the Board to be included in any order?

8 A. Yes, for coalbed methane lease it's a \$1 per

9 acre per year with a five year paid up term and one-eighth

10 production payment.

11 Q. You have an Exhibit E here, correct?

12 A. Yes, we do, for Tract 1B and 1F. You might

13 on Tract 1B it has a cloud on title, which also needs...makes

14 it a conflicting claim.

15 Q. Then you have...you obviously have some

16 folks with royalty split agreements because there's an

17 Exhibit EE, correct?

18 A. Yes, it is.

19 Q. And are you requesting that the Board allow

20 you to pay the folks who have royalty split agreements

21 directly rather than escrowing their claims?

22 A. Yes, we do.

23 Q. Is it your opinion that the development plan

24 disclosed by the application and related exhibits is a

1 reasonable plan to develop the coalbed methane in this unit  
2 and a reasonable plan that will protect the correlative  
3 rights of all owners?

4 A. Yes, it is.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: Questions from members of the  
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion?

10 KEN MITCHELL: So moved.

11 DONALD RATLIFF: Second.

12 BENNY WAMPLER: Motion to approve and a second.  
13 Any further discussion?

14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying  
16 yes.

17 (All members signify by saying yes.)

18 BENNY WAMPLER: Opposed, say no.

19 (No audible response.)

20 BENNY WAMPLER: You have approval. Thank you.

21 MARK SWARTZ: Thank you very much.

22 BENNY WAMPLER: One final item that I have is our  
23 minutes...the results of the hearing from February the 18th.  
24 We'd ask for those of us that were present to...if there's

--



1 any additions or corrections. If not, we'd entertain a  
2 motion for approval of those.

3 DONALD RATLIFF: I move that they be adopted as  
4 presented.

5 MASON BRENT: Motion to approve.

6 BENNY WAMPLER: A motion. Is there a second?

7 MASON BRENT: Second.

8 BENNY WAMPLER: Any further discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying  
11 yes.

12 (All members signify by saying yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: Before we get away here, I've gotten a  
19 letter from Consol Energy indicating that they are on the  
20 verge of merging. There are several wholly owned companies  
21 under one name.

22 As of April the 1st, Pocahontas Gas Partnership,  
23 Consol Energy at least will be doing business as CNX Gas.  
24 And the Board is going to need to address the succession of

--

1 this name under all its preceding orders. There is precedent  
2 for this. We've done this in the past. The Board has on its  
3 motion issued an order basically stating that this new name  
4 has authority as given under the old names in the past. So,  
5 I'm not sure if this needs to be an agenda item or exactly  
6 how you want to handle it. The Board will need to address  
7 it.

8 BENNY WAMPLER: I would say probably upon request  
9 of the applicant at the next hearing that when you go into  
10 the change and we get all of that of record, then you can  
11 make that request and we'll entertain it.

12 MARK SWARTZ: Yeah, we have...we have filed...we  
13 have given...we're dealing with our permit issues.

14 BENNY WAMPLER: Correct.

15 MARK SWARTZ: We'll bring that up. There's...  
16 essentially it's in a voluntary transfer. It's kind  
17 like...it's a seal of approval of the Board. So,  
18 we'll...we'll take that up with you next time.

19 BENNY WAMPLER: Who is Les going to be working for  
20 then?

21 (Laughs.)

22 LESLIE K. ARRINGTON: Yes. Thank goodness we get  
23 rid of these names.

24 MARK SWARTZ: Well, it might save some of this

--

1 confusion as to who's who.

2 (Laughs.)

3 MARK SWARTZ: We'll see.

4 ANITA TESTER: Or that pause in between.

5 LESLIE K. ARRINGTON: Which one is this.

6 BENNY WAMPLER: Pure jest. Thank you very much.

7

8 STATE OF VIRGINIA,

9 COUNTY OF BUCHANAN, to-wit:

10 I, SONYA MICHELLE BROWN, Court Reporter and Notary  
11 Public for the State of Virginia, do hereby certify that the  
12 foregoing hearing was recorded by me on a tape recording  
13 machine and later transcribed by me personally.

14 Given under my hand and seal on this the 9th day of  
15 April, 2003.

16 NOTARY PUBLIC

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18 My commission expires: August 31, 2005.

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